

INCLUSIONARY HOUSING DRAFT ORDINANCE

Guide for Public Feedback

The draft Inclusionary Housing Ordinance is available for public review for 45-days from January 20 - March 7, 2023. The Draft Ordinance is included starting on page 7 of this document.

Inclusionary housing is a tool used to help increase production of affordable housing. It works by requiring that new development include a percentage of affordable homes for low to moderate income families.

The following narrative and tables provide an overview of the different sections of the Draft Inclusionary Housing Ordinance (Draft Ordinance) where we are seeking feedback on the programmatic options that may be directed by the Board of Supervisors (Board) as part of the adoption of the Inclusionary Housing Ordinance. Your input will be used to refine the options that will be provided to the Board for consideration.

We are seeking feedback on:

- **MINIMUM PROJECT SIZE FOR ORDINANCE APPLICABILITY (Section 6341.b of the Draft Ordinance).** This is the project type and minimum project size that the ordinance would apply to.
 - General Plan Compliant projects refers to projects that are consistent with land use established in the General Plan.
 - General Plan Amendment projects, for the purpose of the Inclusionary Housing Ordinance, refers to projects that propose to change the General Plan land use in order to increase the density that would otherwise apply to the project. Density is the number of residential units allowed on a parcel and is measured as the number of dwelling units per acre. These projects are known as General Plan Amendment projects because they require the County General Plan to be amended to allow a higher housing density.
 - We are seeking specific feedback on the project type and minimum project size that the ordinance should apply to:
 - **Option 1**
 - General Plan Compliant Project: Apply the ordinance to projects proposing 5 or more units.
 - General Plan Amendment Project: Apply the ordinance to projects proposing 1 or more units.
 - **Option 2**
 - General Plan Compliant Project: Apply the ordinance to projects proposing 10 or more units.
 - General Plan Amendment Project: Apply ordinance to projects proposing 1 or more units.
 - **Option 3**
 - General Plan Compliant Project: Apply the ordinance to projects proposing 10 or more units.
 - General Plan Amendment Project: Apply ordinance to projects proposing 10 or more units.
- **SET-ASIDE REQUIREMENT (Section 6341.c of the Draft Ordinance).** This is the minimum number of affordable housing units and affordability level of those units that projects would need to provide.

INCLUSIONARY HOUSING DRAFT ORDINANCE

Guide for Public Feedback

- We are seeking specific feedback on how much affordable housing (i.e. set aside) and the level of affordability (i.e. AMI level) for those units that projects should be required to provide. The affordability level of a housing units reflects the maximum income that families can earn in order to purchase or rent an affordable housing unit. The maximum income levels are provide in table 5 below.
- The County conducted an Economic Analysis to evaluate and identify feasible options for projects to provide affordable housing. Since the economics of a project vary depending on whether the project is for sale, for rent, or a General Plan Amendment, there are different feasible set-aside options identified for each of these project types.
- Section 6341.c of the Draft Ordinance provides a range of the feasible options for projects to provide affordable housing. For the full range of feasible options for each project type, please refer to the associated tables listed below. This information can also be found on table 50 of the Economic Analysis.
 - General Plan Compliant Projects - For Sale (Please see Table 2 below)
 - General Plan Compliant Projects - For Rent (Please see Table 3 below)
 - General Plan Amendment Projects (Please see Table 4 below)
- You can use these tables as a guide for providing feedback on the different feasible set aside options that could be applied to different project types. We are seeking specific feedback on priorities for these set aside and affordability requirements. For example, should the ordinance focus on providing very low income or focus and a broader range of incomes?
- **ALTERNATIVE COMPLIANCE. (Section 6341.d of the Draft Ordinance).** State law requires that an Inclusionary Housing Ordinance include an alternative compliance option for projects that cannot include the affordable housing units on site.
- We are seeking feedback on the Alternative compliance options listed below including which options should be included in ordinance:
 - **In-Lieu Fee** - Project would pay a fee as opposed to constructing the affordable housing units on site.
 - **Off-Site Develop** - Project would construct the affordable housing units on a different site than the market-rate units.
 - **Land Dedication** - Project would donate land to the County for future affordable housing development to be constructed on the land as opposed to constructing the affordable housing units on the same site as the market-rate units.
 - **Rehabilitation of units.** Projects would rehabilitation existing housing units and deed-restrict them as affordable housing.
 - **Accessory Dwelling Units (ADUs).** Projects would construct ADUs as part of the development and deed-restrict them as affordable housing.
- In addition, we are asking specific feedback on the following:
 - **In-Lieu Fee** - If in-lieu fee was included as an alternative compliance option, what projects should be allowed to use in-lieu fee:
 - **Option1:** In-lieu fee should be available to all projects
 - **Option 2:** In-lieu fee should only be available to project of 10 units or less.
 - **Off-Site Development** - If off-site development was included as an alternative compliance option, additional affordable housing could be required:
 - **Option1:** Require additional 5% lower-income housing (0-80% AMI)
 - **Option 2:** Not require additional affordable housing

INCLUSIONARY HOUSING DRAFT ORDINANCE

Guide for Public Feedback

- **Location Criteria for Off-Site Development, Land Dedication, and Rehabilitation of Units** - If off-site development, land dedication, or rehabilitation of units were allowed, what requirements should apply to make a property eligible for these alternative compliances:
 - **Option 1:** Property must be outside very-high and fire severity zones.
 - **Option 2:** Property should be within 1 mile from proposed project, or must meet the following:
 - Must be located within a Vehicle Miles Traveled (VMT) efficient area, or an infill area per the County's Transportation Study Guidelines
 - Must be within high or highest resource area
- **INCENTIVES (Section 6341.e of the Draft Ordinance).** Incentives are provided to help off-set the costs of providing affordable housing and to facilitate project feasibility. Projects subject to the ordinance will be eligible to receive incentives to the County's Density Bonus Program (Section 6365 of the Zoning Ordinance). Incentives include reduction of development standards that would per the Zoning Ordinance. In addition to the incentives available under the County's Density Bonus Program, the County could provide expedited review to certain projects. Please note that expedited review would not change the project review process that would be required for project but would reduce the timeframes for the completing of the required review.
 - **Option 1:** Expedited Review for project that provide all units as affordable housing for lower-income household (up to 80% of the AMI).
 - **Option 2:** Expedited review for project that provide 50% more affordable housing than required

If you have any questions related to any of this information provided in the document, please reach out to Camila Easland at PDS.LongRangePlanning@sdcounty.ca.gov, or Phone: (858) 505-6677. You may also request to schedule a meeting with county staff to further discuss the materials available for public review.

INCLUSIONARY HOUSING DRAFT ORDINANCE

Guide for Public Feedback

Table 1: Inclusionary Housing Ordinance Sections with Programmatic Options

PROJECTS THAT WILL BE SUBJECT TO THE ORDINANCE - PROJECT SIZE (Section 6341.b of the Draft Ordinance)			
The Board may provide direction on the projects that should be subject to the ordinance			
General Plan Compliant Project	Option 1 5 units or more	Option 2 10 units or more	Option 3 10 units or more
General Plan Amendment	Option 1 1 unit or more	Option 2 1 unit or more	Option 3 10 units or more
SET-ASIDE REQUIREMENT (Section 6341.c of the Draft Ordinance)			
The Board may select one of the feasible scenarios from the Economic Analysis			
General Plan Compliant Project - Rent	Range between 20% M and 5% VL+ 5% L +10% M		
General Plan Compliant Project - Sale	Range between 5% VL and 5% L +10% M		
General Plan Amendment	Range between 10% M and 5% VL+ 15% L		
ALTERNATIVE COMPLIANCE (Section 6341.d of the Draft Ordinance)			
State law requires that the ordinance include at least one alternative compliance option. The Board may select more than one of these options			
In-Lieu Fee	Land Donation		
Off-Site Development	Rehabilitation of Units		
Accessory Dwelling Units			
IN-LIEU FEE CRITERIA (Section 6341.d of the Draft Ordinance)			
This alternative compliance option would allow for a project to pay a fee as opposed to providing the affordable housing units on the same site as the market-rate units			
Available to all projects			
Available to projects smaller than 10 units			
OFF-SITE DEVELOPMENT (Section 6341.d of the Draft Ordinance)			
This alternative compliance option would allow for the affordable units to be developed at a different site than the market-rate units			
Require that the project provide an additional 5% lower-income housing (0-80% AMI) as a condition for developing off-site.			
Not require additional affordable housing as a condition for the development of affordable housing off-site.			
LOCATION CRITERIA (Section 6341.d of the Draft Ordinance)			
Can apply to off-site development, land donation, and rehabilitation			
Must be outside very-high and high fire hazard zones			
Must be located within 1 mile distance or:			
<ol style="list-style-type: none"> 1. Must be in a Vehicle Miles Traveled area, or an infill area per the County's Transportation Study Guidelines 2. Must be within high or highest resource area 			
INCENTIVES (Section 6341.e)			
Incentives can be provided to help off-site the costs of providing affordable housing and to facilitate project feasibility			
Expedited Review for project that provide all units as affordable housing for lower-income household (up to 80% of the AMI)			
Expedited review for project that provide 50% more affordable housing than required			

INCLUSIONARY HOUSING DRAFT ORDINANCE

Guide for Public Feedback

Table 2: Range of Feasible Scenarios for General Plan Compliant for Sale

Scenario from Economic Analysis	Example of a calculation for a project of 40 units
5% Extremely Low (1a)	28 market-rate and 2 extremely low units
5% Very-Low (3a)	28 market-rate and 2 very-low units
10% Low (6a)	26 market-rate and 4 very-low units
10% Moderate (14a)	26 market-rate and 4 moderate=income units
15% Moderate (15a)	24 market-rate and 6 moderate=income units
5% Low + 10% Moderate (18a)	24 market-rate, 2 low-income, and 4 moderate-income units

Table 3: Range of Feasible Scenarios for General Plan Compliant for Rent

Scenario from Economic Analysis	Example of a calculation for a project of 30 units
5% Extremely Low (1a)	28 market-rate and 2 extremely low units
5% Very-Low (3a)	28 market-rate and 2 very-low units
10% Low (6a)	26 market-rate and 4 low-income units
15% Low (7a)	24 market-rate and 6 low-income units
20% Moderate (16a)	22 market-rate and 8 moderate-income units
5% Very-Low + 5% Low + 5% Moderate (17a)	24 market-rate, 2 very-low, 2 low-income, and 2 moderate-income units
5% Low + 10% Moderate (18a)	24 market-rate, 2 low-income, and 4 moderate-income units
10% Low + 10% Moderate (19a)	22 market-rate, 4 low-income, and 4 moderate-income units
5% Very-Low + 5% Low + 10% Moderate (21a)	22 market-rate, 2 very-low, 2 low-income, and 4 moderate-income units

Table 4: Range of Feasible Scenarios for General Plan Amendment

Scenario from Economic Analysis	Example of a calculation for a project of 30 units
5% Extremely Low (1a)	28 market-rate and 2 extremely low units
10% Extremely Low (2a)	26 market-rate and 4 extremely low units
5% Very-Low (3a)	28 market-rate and 2 very-low units
10% Very-Low (4a)	26 market-rate and 4 very-low units
15% Very-Low (5a)	24 market-rate and 6 very-low units
10% Low (6a)	26 market-rate and 4 low-income units
15% Low (7a)	24 market-rate and 6 low-income units
20% Low (8a)	22 market-rate and 8 low-income units
5% Very-Low + 5% Low (9a)	26 market-rate, 2 very-low, and 2 low-income units
10% Very-Low + 5% Low (10a)	24 market-rate, 4 very-low, and 2 low-income units
5% Very-Low + 10% Low (12a)	24 market-rate, 2 very-low, and 4 low-income units
5% Very-Low + 15% Low (13a)	22 market-rate, 2 very-low, and 6 low-income units
10% Moderate (14a)	26 market-rate and 4 moderate-income units
15% Moderate (15a)	24 market-rate and 6 moderate-income units
20% Moderate (16a)	22 market-rate and 8 moderate-income units
5% Very-Low + 5% Low + 5% Moderate (17a)	24 market-rate, 2 very-low, 2 low-income, and 2 moderate-income units
5% Low + 10% Moderate (18a)	24 market-rate, 2 low-income, and 4 moderate-income units
10% Low + 10% Moderate (19a)	22 market-rate, 4 low-income, and 4 moderate-income units
10% Low + 5% Very-Low (20a)	24 market-rate, 4 low income, and 2 very-low income units
5% Very-Low + 5% Low + 10% Moderate (21a)	22 market-rate, 2 very-low, 2 low-income, and 4 moderate-income units

INCLUSIONARY HOUSING DRAFT ORDINANCE

Guide for Public Feedback

5% Very-Low + 10% Low + 5% Moderate (22a)	22 market-rate, 2 very-low, 4 low-income, and 2 moderate-income units
10% Very-Low + 5% Low + 5% Moderate (23a)	22 market-rate, 4 very-low, 2 low-income, and 2 moderate-income units
7% Very-Low + 7% Low + 6% Moderate (24a)	22 market-rate, 3 very-low, 3 low-income, and 2 moderate-income units
8% Very-Low + 6% Low + 6% Moderate (25a)	23 market-rate, 3 very-low, 2 low-income, and 2 moderate-income units
11% Extremely Low (27a)	26 market-rate and 4 extremely low units
12% Extremely Low (28a)	25 market-rate and 5 extremely low units

Key Definitions:

Affordable Housing:

Affordable housing consists of housing units with requirements that rents or mortgages to be affordable to households at lower or moderate-income levels (see income limits in question 4). These requirements are recorded on the property title and referred to as deed-restricted properties. Residents of affordable housing pay no more than 30% of gross income for housing costs.

Inclusionary Housing:

Inclusionary housing is a tool used to help increase production of affordable housing. It works by requiring that new development include a percentage of affordable homes for low to moderate income families.

Income Limits for Affordable Housing Eligibility:

Every year, the State Department of Housing and Community Development (HCD) issues the income limits that apply to affordable housing programs ([available here](#)). The income limits for affordable housing eligibility are based on the Area Median Income (AMI). San Diego County's AMI in 2022 was \$106,900.

Table 5: 2022 Affordable Housing Income Limits for a Family of Four

Income Category	Area Median Income (AMI)	Income Limits
Extremely Low	0-30% of the AMI	\$39,050
Very-Low	30-50% of the AMI	\$65,050
Low	50-80% of the AMI	\$104,100
	80-120% of the AMI	\$128,300

**Draft Ordinance Amending the San
Diego County Zoning Ordinance
Related to Affordable Inclusionary
Housing Program
(POD 20-007)
(Strikeout/Underline Copy)**

PRELIMINARY DRAFT

ORDINANCE NO-_____ (NEW SERIES)

AN ORDINANCE AMENDING THE SAN DIEGO COUNTY ZONING ORDINANCE RELATED TO THE AFFORDABLE INCLUSIONARY HOUSING PROGRAM

The Board of Supervisors of the County of San Diego ordains as follows:

Section 1. The Board of Supervisors finds and determines that the Zoning Ordinance should be amended to update and revise regulations for affordable inclusionary housing program. The amendments made by this ordinance are intended to set forth reasonable standards and procedures for affordable housing development projects. The County desires to allow flexibility for affordable housing. This ordinance provides the amended standards for affordable housing projects within the County’s unincorporated areas.

Section 2. Section 1100 Definitions (A) of the Zoning Ordinance is amended add new definitions:

Affordable rent: The maximum monthly rent calculated at the specified income level in accordance with California Health and Safety Code Section 50053 and implementing regulations.

Affordable sales price: The maximum purchase price that will be affordable to the specified household at the specified income level, calculated in accordance with California Health and Safety Code Section 50052.5 and implementing regulations. The affordable sales price shall include a reasonable down payment, and monthly housing payments (including interest, principal, mortgage insurance, property taxes, homeowner’s insurance, homeowner’s association dues, and a reasonable allowance for property maintenance, repairs, and utilities), all as determined by the County.

Area median income or AMI: The annual median income for San Diego County, adjusted for household size, as published periodically in the California Code of Regulations, Title 25, Section 6932, or its successor provision, or as established by the County in the event that such median income figures are no longer published periodically in the California Code of Regulations.

Section 3. Section 1100 Definitions (R) of the Zoning Ordinance is amended to add the following new definitions:

Rehabilitated Dwelling Unit: Painting, roofing, plumbing, electrical or other work to a single detached, multi dwelling, or mobilehome that restores or preserves the habitable condition of the single detached, multi dwelling or mobilehome.

Section 4. Section 6341 is hereby added to the San Diego County Zoning Ordinance to read as follows:

6341 AFFORDABLE HOUSING PROGRA

6341.a TITLE AND PURPOSE

The provisions of Section 6341 shall be known as the Affordable Housing Program. The purpose of these provisions is to establish standards and procedures to require the development of housing that is affordable to a range of households with varying income levels in order to ensure the addition of affordable housing units to the County's housing stock in proportion with the overall increase in new housing units.

It is the policy of the County that this Section be interpreted and implemented in a manner to afford the fullest possible weight to the interest of, and the approval and provision of, affordable and inclusionary housing.

6341.b APPLICABILITY

1. Applicability. The requirements of this ordinance shall apply to all new residential and mixed-use development projects, for rent or for sale, approved after the date of this Ordinance, except as noted in Subsection 6341.b.1.ii (referred to from herein as "Projects"). The requirements of this ordinance shall apply to all developers and their agents, successors-in-interest, and assigns proposing a Project. All inclusionary units required by this ordinance shall be sold or rented in compliance with this ordinance and the County's regulations for the implementation of the Affordable Housing Program. No building permit shall be issued, nor any development approval granted for a development that does not meet the requirements of this ordinance.

- i. Project Size. The following Projects shall be subject to the requirements under this ordinance.

[The Board will have an option to direct one of the options below.]

Option 1

- a) A General Plan Compliant Project that proposes a minimum of five (5) dwelling units that will be developed for a rental or for-sale.
- b) A Project that seeks a General Plan Amendment to increase the maximum allowable density and that proposes a minimum of one (1) dwelling unit.

Option 2

- a) A General Plan Compliant Project that proposes a minimum of ten (10) dwelling units that will be developed for a rental or for-sale.
- b) A Project that seeks a General Plan Amendment to increase the maximum allowable density and that proposes a minimum of one (1) dwelling unit.

Option 3

- a) A General Plan Compliant Project that proposes a minimum of ten (10) dwelling units that will be developed for a rental or for-sale.
 - b) A Project that seeks a General Plan Amendment to increase the maximum allowable density and that proposes a minimum of ten (10) dwelling units.
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ii. Exempt Projects. The following projects are exempt from the requirements of this ordinance:

- a) Project Location: Projects located in Sub-Area 5, per the Inclusionary Housing Economic Analysis.
- b) Project Type. Projects that provide 100% of all units in the development, including total units and density bonus units, but exclusive of a manager's unit or units, as affordable housing (up to 120% of the AMI).
- c) Residential developments for which an application for a ministerial has been received or for discretionary permit that has been deemed complete no later than the effective date of this ordinance.
- d) Permit Expiration. Upon the expiration of any discretionary permit that is not eligible for renewal, and unless otherwise exempted, the residential development shall be subject to the affordable housing requirements of this ordinance, and shall not proceed until an affordable housing plan is approved in conjunction with any other required discretionary or ministerial permit or amendment thereto.

6341.c AFFORDABLE HOUSING UNIT COMPLIANCE REQUIREMENTS

1. Minimum Affordable Set-Aside Requirement for Onsite Units. Unless exempt from this ordinance, Projects must provide a percentage of the base units as affordable housing units as described below:

[The Board will have the option to decide the set-aside requirement. The economically feasible set-aside scenarios will be used to inform this decision.]

[Minimum Set-Aside for General Plan Compliant Rent]

- a) General Plan Compliant for Rent. If the Project is General Plan compliant and proposes rental units, the affordable housing set-aside units shall be provided as [Range between 20% moderate income and 5% very-low income + 5% low-income + 10% moderate-income; please refer to table 50 of the Economic Analysis]
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[Minimum Set-Aside for General Plan Compliant Sale]

General Plan Compliant For Sale. If the Project is General Plan compliant with for sale units, the affordable housing set-aside units shall be provided as [Range between 5% very-low income and 5% low-income + 10% moderate-income; please refer to table 50 of the Economic Analysis].

[Minimum Set-Aside for General Plan Amendment]

c) General Plan Amendment. If the Project proposes a General Plan Amendment, the affordable housing set-aside units shall be provided as [Range between 10% moderate-income and 5% VL+ 15%L; please refer to table 50 of the Economic Analysis].

- i. Rounding rules.
 - a) In calculating the required number of affordable housing units, if set-aside includes fractional units of 0.5 or above, one additional affordable unit shall be provided at the lowest affordability level required by the set-aside amount.
- ii. Comparability. Affordable housing units must conform to the following standards:
 - a) Affordable housing units shall be comparable in size, exterior appearance, and overall quality of construction to market-rate units in the same housing development. Interior finishes and amenities may differ from those provided in the market-rate units, provided they are new, durable, and of good quality.
 - b) Affordable housing units shall have the same amenities as the market-rate units, including the same access to and enjoyment of common open space, parking, storage, and other facilities in the residential development.
 - c) The unit mix based on bedroom count provided for affordable housing units shall be proportional to the unit mix based on bedroom count provided for market-rate units.
 - d) Affordable housing units shall be dispersed throughout the housing development, on each floor, elevation, and section of the building(s) and throughout the site.
- iii. Density Bonus. If an applicant seeks to construct affordable housing to qualify for a density bonus in accordance with the provisions of Section 6350, those affordable dwelling units that qualify a residential development for a density bonus shall also be counted toward satisfying the inclusionary housing requirements of this ordinance.

2. Duration of Affordability.

- i. Each affordable housing unit set aside pursuant to the requirements of this ordinance shall be limited to such below-market rates for a period of not less than 55 years, commencing from the date of the County’s authorization for occupancy of the unit.

3. Timing for Construction of Inclusionary Housing Units

- i. All required inclusionary units shall be made available for occupancy concurrently with the market-rate units. For the purposes of this section, “concurrently” means one of the following:
 - a) The County may not issue building permits for more than 50% of the market-rate units until it has issued building permits for all of the affordable units, and the County may not approve any unit occupancy final inspections for more than 75% of the market-rate units until it has issued unit occupancy final inspections for all of the affordable units. The County and developer may agree on an alternative schedule for development that is included in the affordable housing agreement.
 - b) In-lieu fees, as appropriate, have been paid. [\[This section will be removed if the Board directs not to include in-lieu fee.\]](#)
 - c) The applicant has met, or made arrangements satisfactory to the County to meet, an alternative requirement as permitted by Section 6340.d.

6341.d ALTERNATIVE COMPLIANCE OPTIONS

1. In Lieu Fees. [\[The Board will have an option to direct one of the options below.\]](#)

[\[In Lieu Fee Applicability - Option 1\]](#)

- i. [Applicability. Applicants may substitute up to one hundred percent \(100%\) for all set-aside requirements with the payment of in lieu fees only for Projects smaller than 10 housing units.](#)

[\[In Lieu Fee Applicability - Option 2\]](#)

- i. [Applicability. Applicants may substitute up to one hundred percent \(100%\) for all set-aside requirements with the payment of in lieu fees.](#)
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- ii. Fractional. Applicant may meet compliance requirements by splitting between providing on-site units and paying an in-lieu fee. [\[This section will be removed if the Board directs not to include in-lieu fee.\]](#)

- iii. Affordable Housing Inclusionary Fund. [This section will be removed if the Board directs not to include in-lieu fee.]
 - a) All in-lieu fees or other funds collected under this ordinance shall be deposited into the County's Affordable Housing Inclusionary Fund and shall be maintained and accounted for separately in an inclusionary housing program subaccount.
 - b) Moneys deposited in the Affordable Housing Inclusionary Fund pursuant to this ordinance may be used by the County to pay for direct costs associated with the administration and enforcement of the Inclusionary Housing Program established by this Section
 - c) After payment of expenses, if any, described in this ordinance, all of the remaining moneys deposited in the Affordable Housing Inclusionary Fund pursuant to this ordinance shall be expended to provide newly constructed housing affordable to very low and low income households.

2. Off-Site Construction of Affordable Units.

- i. The applicant may propose to construct the affordable units required by this Section on another site within the unincorporated area. The County may approve the off-site construction only if the proposal meets all of the following requirements:
 - a) Comparability. Off-site units must be comparable to or greater than on-site average market-rate units in terms of unit size, bedroom count, and quality. Such comparability standards may be modified at the discretion of the Director of Planning & Development Services on a project-by-project basis.

[The Board will have an option one or all of the options below.]

[Off-site Criteria – Options. None or all options may be selected]

- b) Off-site development must provide an additional five percent (5%) of lower-income housing (0-80% of the AMI).
- c) Off-site units must be located outside of High and Very High Fire Severity Zones.
- d) Off-site unit land must be located within maximum distance of 1 mile of the market-rate units, or must comply with all of the following:
 - a. Off-site units must be located in High or Highest resource areas (as defined by the California Tax Credit Allocation Committee);
 - b. Off-site units must be located within a vehicle miles traveled (VMT) efficient area or an Infill Area found to have less than significant VMT impacts under the County's Transportation Study

Guide (TSG) for VMT.

3. Accessory Dwelling Units. [The Board will have an option to include accessory dwelling units.]
 - i. As an alternative to providing single-family detached dwelling units as affordable housing units, an applicant may instead provide an affordable accessory dwelling unit for each required affordable housing unit, subject to the standards for accessory dwelling units contained in Section 6156x.
 - ii. The term and affordability of the accessory dwelling units and the affordable housing agreement and rent regulatory agreement shall conform with the provisions of this ordinance applicable to rental affordable housing units.
 - iii. In no event shall a developer be allowed to construct more than 50% of the total required affordable housing units as accessory dwelling units for projects of 10 or more units, or five accessory dwelling units, whichever is less, in any given residential development to satisfy the requirements of this ordinance.
 - iv. Comparability. ADUs must be comparable to the average on-site market-rate units in terms of unit size, bedroom count, and quality. Such comparability standards may be modified at the discretion of the Director of Planning & Development Services on a project-by-project basis.

4. Land Donation [The Board will have an option to include land donation.]
 - i. Applicability.
 - a) Land dedication shall be allowed as an alternative to providing on-site units. Land dedication may be used to fulfill all or part of an applicant's development application.
 - b) The requirements of this ordinance may be satisfied by the donation of land if the donation is completed in accordance with California Government Section 65915(g) and if the value of the land on the date of donation is equal to or greater than the inclusionary in-lieu fee applicable to the Applicant's development on the date of donation.
 - ii. Site Suitability.
 - a) The County shall have the discretion to approve a developer's proposal to donate property. The developer must provide evidence of the following when the land donation proposal is submitted:
 - 1) The developer must provide a Preliminary Title Report for the property and have site control with a lien-free title. Any

encumbrances or easements that adversely impact the property's title must be remediated to the County's satisfaction prior to conveyance of the site. Anything that cannot be remedied must be approved by County and factored into the estimated value of the interests proposed to be conveyed to the County.

- 2) The developer must provide an appraisal report of the property that complies with the Uniform Standards of Professional Appraisal Practice (USPAP) and is prepared by a California Certified General license real estate appraiser. The purpose of the appraisal is to establish the "as-is" market value of the land. County of San Diego must be listed as an intended user. The appraisal report must be reviewed and approved by Department of General Services Real Estate Valuation. Definition of "market value" is based on the most current edition of The Appraisal of Real Estate published by the Appraisal Institute.
- 3) An initial review of hazardous materials must be performed by Department of Environmental Health and Quality, and all recommendations based on the findings must be completed, including any potential Phase 1 or 2 Environmental Reports. The property does not contain any hazardous materials at the time the land donation proposal is submitted and must disclose whether any hazardous materials were previously contained on the site; and if hazardous materials were previously remediated, the developer must provide evidence that the cleanup was performed in accordance with applicable law.
- 4) The property is not environmentally constrained and does not include steep slopes, wetlands, floodway, floodplain, prime farmland, farmland, conservation land, habitant land, or conservation easements. In addition, the project must be outside high and very-high fire hazard zones.
- 5) The property has not been improved with any residential use for at least five years prior to the submission of a land donation proposal.
- 6) The property owner has paid in full all property taxes and special taxes when the proposal is submitted and again prior to conveyance of the property to the County.
- 7) The site has a General Plan and Zoning designations that authorizes residential uses, including multifamily and is zoned for residential development, including multifamily, at a density to accommodate at least the number of otherwise required affordable housing units within the residential development.

iii. Location.

- a) Donated land must be within the unincorporated County and located in High or Highest resource areas (as defined by the California Tax Credit Allocation Committee (CTCAC), and be within a vehicle miles traveled (VMT) efficient area or an Infill Area found to have less than significant VMT impacts.

5. Rehabilitation [\[The Board will have an option to include land donation.\]](#)

i. Requirement.

- a) The affordable housing requirement may be satisfied by the rehabilitation and preservation of existing affordable housing units at risk of loss or by conversion of market-rate units to affordable units, if the preservation or conversion of these units is consistent with Government Code Section 65583.1 and allows the County to substitute the preservation or conversion of these units for the obligation to identify adequate sites.

[\[The Board will have an option one of the options below.\]](#)

[\[Rate of Rehabilitation – Option 1\]](#)

- b) [Rehabilitation/conversion of market-rate units into affordable housing units must be provided at twice the amount of required on-site units.](#)

[\[Rate of Rehabilitation – Option 2\]](#)

- b) [Rehabilitation/conversion of market-rate units into affordable units must be provide in the same number and level of affordability as required by the set-aside.](#)
-

ii. Comparability

- a) Rehabilitated/converted affordable housing units must be comparable to or greater than the average market-rate units in terms of unit size, bedroom count, and quality. Standards may be modified at the discretion of the Director of Planning & Development Services on a project-by-project basis.

iii. Value.

- a) The Applicant provides evidence that the existing structure has a remaining useful life of at least 55 years from the approval of the dwelling unit as an inclusionary dwelling unit.

- b) The Applicant provides evidence that the rehabilitation work complies with California Building Code requirements to the satisfaction of the Building Official.
- c) The Applicant provides a physical needs assessment to the satisfaction of the County Department of Housing and Community Development for each dwelling unit to be rehabilitated, for the premises where the dwelling units are located, and for any associated common area. All items identified in the physical needs assessment needing repair or replacement at the time of the assessment or that will likely require repair or replacement within three years of the assessment shall be completed by the applicant during the rehabilitation work.
- d) On or before the time the applicant’s application is deemed complete, the applicant complies with the State Relocation Act codified in California Government Code Section 7260 and provides all costs of notice to, and relocation of, any existing residents occupying the dwelling units to be rehabilitated.

iv. Location.

- b) Rehabilitated dwelling units shall be located in High or Highest resource areas (as defined by the California Tax Credit Allocation Committee (CTCAC), and be within a vehicle miles traveled (VMT) efficient area or an Infill Area found to have less than significant VMT impacts.

6341.e AFFORDABLE HOUSING INCENTIVES

The developer of a residential development providing all required affordable housing units upon the same site as the market-rate units may, at the developer’s sole option and concurrently with the submittal of the affordable housing plan, submit a written request for one or more of the following on-site affordable housing development incentives:

- 1. Density bonus incentives if the residential development contains sufficient affordable housing units to qualify for a density bonus, per Section 6365, If the applicant requests a density bonus, the other incentives listed below may be provided only if each is individually requested as a regulatory incentive.

[\[The Board will have an option one of the options below.\]](#)

[Expedited Review– Option 1]

- 2. Expedited Review. The developer may apply for the Expedited Review Process if all units within the development are affordable housing units for lower-income households (up to 80% of AMI).

[Expedited Review– Option 2]

- 2. Expedited Review. The developer may apply for the Expedited Review Process if the

developer provides at least 50% more affordable housing units than are required by this ordinance.

3. Affordable Housing Plan. The incentives requested by the developer shall be included in the proposed affordable housing plan submitted at the time of application for the first approval of the Project, and any incentives approved by the County shall be included in the affordable housing plan.

6341.f AFFORDABLE HOUSING PLAN

An application for the first approval of a residential development shall include an affordable housing plan describing how the development will comply with the provisions of this ordinance.

1. No application for a first approval for a residential development may be deemed complete unless an affordable housing plan is submitted in conformance with this ordinance.
2. The affordable housing plan shall be processed concurrently with all other permits required for the residential development. Before approving the affordable housing plan, the approval body shall find that the affordable housing plan conforms to this ordinance. A condition shall be attached to the first approval of any residential development to require recordation of the Affordable Housing Agreement described in Section 7430 of the Zoning Ordinance prior to the approval of any final or parcel map or building permit for the residential development.
3. The approved affordable housing plan for a residential development, or for a building phase in a residential development, where phasing has been approved as part of a discretionary permit approvals, may be amended prior to issuance of any building permit for the residential development or building phase, if applicable. A request for a minor modification of an approved affordable housing plan may be granted by the Director of Planning & Development Services if the modification is substantially in compliance with the original affordable housing plan and conditions of approval. Other modifications to the affordable housing plan shall be processed in the same manner as the original plan. An affordable housing plan shall include, but not be limited to, the following:
 - i. The number of affordable housing units proposed, with specific calculations detailing the application of any inclusionary credit adjustment;
 - ii. The unit square footage, and number of bedrooms for market rate and affordable housing units and tenure (ownership or rental);
 - iii. Detailed plot plan showing location of all affordable housing units
 - iv. Amenities and services provided, such as daycare, transportation, job training/employment services and recreation;

- v. Level of affordability for affordable housing units (very low, low or moderate):
- vi. Schedule for production of dwelling units. The schedule must comply with Section 6340.c. 3.
- vii. Incentives requested

Section 5. Section 7430 of the San Diego County Zoning Ordinance is hereby amended to read as follows:

SEC. 7430 ~~DENSITY BONUS/AFFORDABLE HOUSING AGREEMENT~~

a. Agreement Required. The applicant shall enter into a contract with the Department of Housing and Community Development, to the satisfaction of the Director of Planning & Development Services, agreeing to the specific terms and conditions of the Density Bonus/Affordable Housing Program or the Affordable Inclusionary Housing Program and to periodic inspections of the housing by County employees. The provisions contained within the agreement shall be enforceable by the County, and a violation of the agreement shall constitute a violation of this Ordinance. The property owner shall execute a Density Bonus/Affordable Housing Agreement and must provide a copy of the recorded restriction for the inclusionary housing units prior to any of the following:

- i. The County taking a ministerial action with regard to the project.
- ii. The County's issuing a discretionary permit for the project. issued in conjunction with a Density Bonus/Affordable Housing application, including tentative maps. The permit shall contain a condition detailing the actions required for compliance with the Density Bonus/Affordable Housing Program and with the terms of the application.
- iii. Each final map or parcel map shall bear a note indicating the method of compliance with the requirements of the Density Bonus/Affordable Housing Program and stating that an affordable housing agreement shall be recorded prior to issuance of a building permit with respect to each parcel created by the map.
- iv. No building permit shall be issued for a residential unit until the applicant has demonstrated ~~compliance with the Density Bonus/Affordable Housing Program through~~ recordation of an Affordable Housing Agreement, including providing a copy of the recorded restriction for the inclusionary housing units

b. Execution of Agreement.

- i. Following ~~Board approval of the agreement and~~ execution of the Affordable Housing Agreement by all parties, the County shall record the completed agreement on the parcels created by the final or parcel map at the County Recorder's Office.
- ii. The approval and recordation shall take place at the same time as recording of the final or parcel map or, where a map is not being processed, before issuance of a building permit.

- iii. The agreement shall be binding on all future owners, developers, and/or successors-in-interest.

Section 6. This ordinance shall take effect and be in force thirty days after its passage, and before the expiration of fifteen days after its passage, a summary hereof shall be published once with the names of the members of this Board voting for and against it in the _____, a newspaper of general circulation published in the County of San Diego.

APPROVED AS TO FORM AND LEGALITY
Claudia G. Silva, County Counsel

By: Suedy Alfaro, Senior Deputy County Counsel