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

(POD 20-007)

Meeting Date: June 24, 2026(05)

ORDINANCE NO. 11009(NEW SERIES)

AN ORDINANCE AMENDING THE SAN DIEGO COUNTY ZONING ORDINANCE RELATED TO THE INCLUSIONARY AFFORDABLE HOUSING PROGRAM (POD-20-007)

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 an inclusionary affordable 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 to add new definitions:

Affordable rent: The maximum monthly rent at the specified income level in accordance with the California Tax Credit Allocation Committee Income and Rent Limits for the Low Income Housing Tax Credit program.

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

6341 INCLUSIONARY AFFORDABLE HOUSING PROGRAM

6341.a TITLE AND PURPOSE

The provisions of Section 6341 shall be known as the Inclusionary 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, submitted to the County more than 120 days after the adoption of this Ordinance, except as noted in Subsection 6341.b.1.ii (referred to 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 Inclusionary 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, unless otherwise explicitly approved by the County.

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

        a) A Project that proposes a minimum of ten (10) dwelling units that will be developed for rental or for sale.

    ii. Exempt Projects. The following projects are exempt from the requirements of this ordinance:

        a) 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 80% of the AMI). Additionally, to be eligible for an exemption under this subparagraph (a), applicants must demonstrate to County's satisfaction the property is or will be subject to a regulatory agreement that restricts the property under a federal, state, or local affordable housing program.

        b) Residential developments for which an application for a ministerial permit has been submitted or for which a discretionary permit has been submitted no later than the effective date of this ordinance.

            a. 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.

        c) Accessory dwelling units developed in accordance with Section 6156.x that are built as an accessory dwelling unit to an existing residential structure. Accessory dwelling units built as part of a new residential development shall not be counted for the purposes of this section.

        d) Additional units granted through density bonus shall not be counted for the purposes of this section.

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:

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 either 5% at 30% of AMI (Extremely Low Income) or 5% at 50% of AMI (Very Low Income) or 10% at 80% of AMI (Low Income).

b) 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 either 5% at 50% of AMI (Very Low Income) or 10% at 80% of AMI (Low Income) or 15% at 120% of AMI (Moderate Income).

c) General Plan Amendment. If the Project proposes a General Plan Amendment, the affordable housing set-aside units shall be provided as 20% at 80% of AMI (Low Income).

ii. Rounding rules.

a) In calculating the required number of affordable housing units, if the set-aside includes fractional units of 0.5 or above, one additional affordable unit shall be provided at the affordability level required by the set-aside amount. Total set-aside requirements below 0.5 unit shall be rounded up or paid for through an in-lieu fee.

iii. Comparability. All affordable housing units must conform to the following standards:

a) Affordable housing units shall be comparable in 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.

iv. 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 when offered at the same affordability level as the required set-aside units.

2. Duration of Affordability.

i. Each affordable rental 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.

ii. Each affordable for-sale housing unit set aside pursuant to the requirements of this ordinance shall be subject to the re-sale provisions contained in the Affordable Housing Agreement in accordance with Section 7430 and pursuant to California Government Code 65915.

3. Timing for Construction of Inclusionary Housing Units

i. All required affordable housing units, including offsite affordable housing units, shall be made available for occupancy concurrently with the market-rate units. For the purposes of this section, "concurrently" means the following, as applicable:

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 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. A hold may be placed on the issuing of the permit and unit occupancy final inspection for market-rate developments if these requirements are not satisfied.

b) In-lieu fees, as appropriate, have been paid.

c) The applicant has met, or made arrangements satisfactory to the County to meet, an alternative requirement as permitted by Section 6341.d.

6341.d ALTERNATIVE COMPLIANCE OPTIONS

All alternative compliance options listed in 6341.d are available to applicants in the priority order laid out below when the applicant demonstrates that building the required affordable units on-site is impractical. The applicant shall demonstrate that compliance with higher-priority alternatives is impractical before a lower-priority alternative compliance option may be considered.

1. Land Donation

i. Applicability.

a) Land dedication may 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) as modified herein 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 Project 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, and shall bear the cost of such evidence:

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 must not contain any hazardous materials at the time the land donation proposal is submitted, and the developer must disclose whether any hazardous materials were previously stored or located 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.

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 at the time of conveyance of the property to the County.

7) The site has General Plan and Zoning designations that authorize 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.

8) The developer provides the location of all utilities via a plot map (water, sewer, electric and gas). All necessary utilities must be

located on the property or at minimum on a site that is immediately adjacent to the property.

iii. Location.

a) The site of the land meets at least one of the following:

1) Land must be located within the same Community Plan Area as the Project; or

2) Land must be located within a vehicle miles traveled (VMT) Efficient area or an Infill area found to have less than significant VMT impacts; or

3) Land must be located in High or Highest resource areas (as defined by the California Tax Credit Allocation Committee (CTCAC)); or

4) Land must be located within Village areas as categorized in the General Plan.

2. For Sale Accessory Dwelling Units.

i. Notwithstanding subsection 6341.b.ii.(d) above, as an alternative to providing single-family detached dwelling units as affordable housing units, an applicant may instead provide for sale affordable accessory dwelling unit(s) for some of the required affordable housing, subject to the development standards in Section 6156.x, and provisions to sell accessory dwelling units contained in Section 6156.x.C Sale of ADUs for or by a Nonprofit or Section 6156.x.D ADUs Sold as Condominiums.

ii. The term and affordability of the accessory dwelling units and the affordable housing agreement shall conform with the provisions of this ordinance applicable to for sale 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 or no more than five accessory dwelling units as required affordable housing units, whichever is less, in any given residential development to satisfy the requirements of this ordinance.

iv. Comparability. In accordance with the on-site affordable unit comparability standards in Section 6341.c.iii, ADUs must be comparable to the average on-site market- rate units including in terms of unit bedroom count and quality, access to amenities, and dispersal throughout the development. Such comparability standards may be modified at the discretion of the Director of Planning & Development Services on a project-by-project basis.

3. In Lieu Fees for up to 50% of the required units

i. Applicability. Applicants may substitute up to fifty percent (50%) of all set-aside requirements with the payment of in lieu fees.

ii. Fractional units. Applicant may meet compliance requirements by paying an in-lieu fee for any required fractional unit and using another approved compliance method for the required whole units.

iii. In-Lieu Fees. In the case of multiple set-aside requirement options, the in-lieu fee paid shall be the highest in lieu fee option from the available set-aside requirement choices, per project type.

a) General Plan Compliant for Rent: $18.69 per market-rate unit sq. ft.
b) General Plan Compliant for Sale: $21.37 per market-rate unit sq. ft.
c) General Plan Amendment: $41.82 per market-rate unit sq. ft.

iv. Affordable Housing Inclusionary Fund.

a) All in-lieu fees or other funds collected under this ordinance shall be deposited into the County's Inclusionary Affordable Housing Fund and shall be maintained and accounted for separately in an inclusionary housing program subaccount to be administered by the Health and Human Services Agency Deputy Chief Administrative Officer.

b) In-lieu fees shall be collected concurrently with other impact fees contingent on permitting and shall not be deferred.

c) Moneys deposited in the Inclusionary Affordable Housing Fund pursuant to this ordinance may be used to pay for direct costs associated with the administration and enforcement of the Inclusionary Housing Program established by this Section. Administration costs shall not exceed ten percent (10%) of fees paid by applicants and deposited in the Inclusionary Affordable Housing Fund.

d) After payment of expenses, if any, described in this ordinance, all of the remaining moneys held in the Inclusionary Affordable Housing Fund pursuant to this ordinance shall be expended in accordance with Section 7450.

4. In-Lieu Fees for up to 100% of the required units

i. Applicability. Applicants may substitute up to one hundred percent (100%) of all set-aside requirements with the payment of in lieu fees.

ii. Fractional units. Applicant may meet compliance requirements by paying an in-lieu fee for any required fractional unit and using another approved compliance method for the required whole units.

iii. In-Lieu Fees. In the case of multiple set-aside requirement options, the in-lieu fee paid shall be the highest in lieu fee option from the available set-aside requirement choices, per project type.

a) General Plan Compliant for Rent: $18.69 per market-rate unit sq. ft.
b) General Plan Compliant for Sale: $21.37 per market-rate unit sq. ft.
c) General Plan Amendment: $41.82 per market-rate unit sq. ft.

iv. Affordable Housing Inclusionary Fund.

a) All in-lieu fees or other funds collected under this ordinance shall be deposited into the County's Inclusionary Affordable Housing Fund and shall be maintained and accounted for separately in an inclusionary housing program subaccount to be administered by the Health and Human Services

Agency Deputy Chief Administrative Officer.

b) In-lieu fees shall be collected concurrently with other impact fees contingent on permitting and shall not be deferred.

c) Moneys deposited in the Indusionary Affordable Housing Fund pursuant to this ordinance may be used to pay for direct costs associated with the administration and enforcement of the Inclusionary Housing Program established by this Section. Administration costs shall not exceed ten percent (10%) of fees paid by applicants and deposited in the Inclusionary Affordable Housing Fund.

d) After payment of expenses, if any, described in this ordinance, all of the remaining moneys held in the Inclusionary Affordable Housing Fund pursuant to this ordinance shall be expended in accordance with Section 7450.

5. Off-Site Construction of Affordable Units.

   i. The applicant may propose to construct the affordable units required by this Section on another site. The County may approve the off-site construction only if the proposal meets all of the following requirements:

      a) Comparability. In accordance with the on-site affordable unit comparability standards in Section 6341.c.iii, off-site units must be comparable to or greater than on-site average market-rate units in terms of unit bedroom count and quality and access to amenities. Such comparability standards may be modified at the discretion of the Director of Planning & Development Services on a project-by-project basis.

      b) Off-site unit land must meet at least one of the following:

         1) Off-site units and land must be located within the same Community Plan Area as the Project; or

         2) Off-site units and land must be located within a vehicle miles traveled (VMT) Efficient area or an Infill area found to have less than significant VMT impacts; or

         3) Off-site units must be located in High or Highest resource areas (as defined by the California Tax Credit Allocation Committee (CTCAC)); or

         4) Off-site units must be located within Village areas as categorized in the General Plan.

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 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. The applicant must identify

any requested County inclusionary housing incentives in the Affordable Housing Plan. Such incentives shall not count against the number of concessions or incentives available under Section 6365.

i. Additional Density Bonus. The developer may apply for an additional density increase doubling State Density Bonus up to a total density bonus of 50%, and the developer may apply for one (1) additional regulatory incentive in addition to the County's Density Bonus Program per Section 6365 if all required affordable housing units are provided on-site.

2. Priority Review. The developer may apply for Priority Review if the Project provides at least 50% more affordable housing units at 80% of AMI (Low Income) on-site than are required by this ordinance to receive priority review. The County will review discretionary applications within 30 business days from a completed application for each submittal or resubmittal.

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 or mixed use 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 or mixed use development subject to this section 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, Housing and Community Development Services and Planning and Development Services (the "approval body") shall find that the affordable housing plan conforms to this ordinance.

3. 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.

4. 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 amendment of an approved affordable housing plan may be granted by the approval body if the amendment is substantially in compliance with the original affordable housing plan and conditions of approval. Other amendments 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;

   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/footprint of all affordable housing units, which shall be disbursed throughout the property.

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 6341.c. 3.

vii. Incentives requested.

viii. Any information necessary to describe and evaluate the applicant's proposed compliance method (i.e. on-site units, in lieu fee, off-site, etc.).

Section 4. Section 7430 of the San Diego County Zoning Ordinance is hereby amended to read as follows:

SEC. 7430 AFFORDABLE HOUSING AGREEMENT

a. Agreement Required. The applicant shall enter into a contract with County Health and Human Services Agency, Housing and Community Development Services, to the satisfaction of the Director of Planning & Development Services, agreeing to the specific terms and conditions of the Density Bonus / Inclusionary Affordable 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 must provide a copy of the approved Affordable Housing Plan prior to any of the following:

   i. The County's issuing a ministerial permit for the project.

   ii. The County's issuing a discretionary permit for the project, as a condition of approval for the discretionary permit.

   iii. Each final map or parcel map shall bear a note indicating the method of compliance with the requirements of the Density Bonus / Inclusionary Affordable Housing Programs and stating that an affordable housing agreement shall be recorded prior to issuance of a building permit with respect to any parcel created by the map.

   iv. No building permit shall be issued for a residential unit until the applicant has demonstrated 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 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 5. This ordinance shall take effect and be in force one hundred and twenty 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 Daily Transcript, a newspaper of general circulation published in the County of San Diego.

APPROVED AS TO FORM AND LEGALITY
Damon M. Brown, County Counsel

By: Jerod Markley, Supervising Deputy County Counsel

PASSED, APPROVED, AND ADOPTED by the Board of Supervisors of the County of San Diego on this 24th day of June 2026.

MONICA MONTGOMERY STEPPE
Vice-Chair, Board of Supervisors
County of San Diego, State of California

The above Ordinance was adopted by the following vote:

AYES: Aguirre, Lawson-Remer, Montgomery Steppe, Desmond
NOES: Anderson

ATTEST my hand and the seal of the Board of Supervisors on this 24th day of June 2026.

ANDREW POTTER
Clerk of the Board of Supervisors

By______________________
Janely Valdivia, Deputy

Ordinance No.: 11009 (N.S.)
Meeting Date: 06/24/2026 (05)