

ATTACHMENT A

ORDINANCE NO. 5243

CHAPTER 46A - INCLUSIONARY HOUSING

Sec. 46A-1. - Purpose and intent.

The purpose and intent of this chapter, which shall be known as "the County of Santa Barbara Inclusionary Housing Ordinance," are the following:

1. To increase the supply of affordable housing units by requiring specified types of discretionary residential projects to provide a portion of the development as price restricted affordable housing units;
2. To retain the long term affordability of these affordable housing units within the county; and
3. To implement policies of the Housing Element of the Comprehensive Plan to:
 - a. Enhance the diversity, quantity, and quality of the housing supply;
 - b. Promote new housing opportunities adjacent to employment centers, and the revitalization of existing housing to meet the needs of all economic segments of the community, including extremely low income households, while bolstering the County's rural heritage and supporting each unincorporated community's unique character;
 - c. Increase the effectiveness of the inclusionary housing program by establishing an inclusionary housing ordinance.

(Ord. No. 4855, § 1, 5-14-2013)

Sec. 46A-2. - Definitions.

For the purposes of this chapter, the following terms, phrases, words, and their derivations shall have the meanings ascribed by this section:

Accessory dwelling unit means an attached or a detached residential dwelling unit that is located on the same lot as a one-family or multiple-family Housing Unit to which the accessory dwelling unit is accessory and (1) provides complete independent living facilities for one or more persons including permanent provisions for cooking, eating, living, sanitation, and sleeping, and (2) provides interior access between all habitable rooms. An accessory dwelling unit may also include an efficiency unit, as defined in Section 17958.1 of the California Health and Safety Code, and a manufactured home, as defined in Section 18007 of the Health and Safety Code.

- a. *Attached accessory dwelling unit* means an accessory dwelling unit that shares at least five feet of common wall with, or is stacked above or below, the principal dwelling or an attached accessory structure.
- b. *Detached accessory dwelling unit.* An accessory dwelling unit that is detached from the principal dwelling and is located on the same lot as the principal dwelling. A detached accessory dwelling unit may be attached to a detached accessory structure.

Affordable means (a) with respect to a rental Housing Unit, a rental Housing Unit where the monthly rental price of which does not exceed 30% of one twelfth (1/12th) of the tenant Household's gross annual Income, for a specific income category and (b) with respect to an owner-occupied Housing Unit, a total monthly housing cost that does not exceed 35% of 1/12th of such owner Household's gross annual Income for a specific income category.

Affordable Housing Unit means a Housing Unit that can be either purchased or rented by Households whose gross annual household income does not exceed two hundred percent of Area Median Income. The term "affordable housing unit" means and includes units priced to serve very-low, low, moderate, and workforce income households. An affordable housing unit is subject to a covenant, deed restriction, and/or other provisions or judgments pursuant to an action that the county was a party to which imposes use and/or affordability and/or price restrictions on the unit. The term applies to existing affordable housing units in the county and also includes new affordable housing units.

Annual Percentage Rate is the average cost of borrowing money per year.

Area Median Income or *AMI* means the median household income of a geographic area of the state, as defined in California Health & Safety Code Section 50093, as that Section now appears and may be amended or renumbered from time to time, and revised annually by the State of California Housing and Community Development Department.

Coastal Zone. That land and water area within the county extending seaward to the state's outer limit of jurisdiction, including all offshore islands, and extending inland to the boundary shown on the official coastal zone maps, as amended from time to time.

Density Increase. An increase in the otherwise maximum allowable residential density under the applicable zoning ordinance and land use designation.

Developer. Any person(s) who own(s) real property within the unincorporated county and/or who constructs, causes to be constructed, or permits to be constructed on such property one or more individual affordable housing units.

Feasible. Capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technical factors, as defined in Government Code Section 65590(g)(3), as that section now appears and may be amended or renumbered.

Full-Time. Occupancy of a housing unit as a primary residence at least ten months out of a calendar year.

HCD means the Housing and Community Development Division of the County's Community Services Department.

Housing Market Area or *HMA* means a geographic area that generally provides the social and economic services to the community and provides its population with facilities such that commuting to another housing market area in order to work or shop is elective. The boundaries of the HMAs generally coincide with County Census Divisions, as defined by the U.S. Census Bureau, and include the following five HMAs: South Coast, Santa Ynez, Lompoc, Santa Maria, and Cuyama.

Household includes all persons who occupy a housing unit as their usual place of residence, whether related or not (U.S. Census 2020), whose gross annual income does not exceed two hundred percent of Area Median Income

Household Income Categories:

Extremely Low Income Household means a Household whose gross annual Income does not exceed thirty percent of Area Median Income.

Very Low Income Household means a Household whose gross annual Income does not exceed fifty percent of Area Median Income. Very Low Income Households include Extremely Low Income Households.

Low Income Household means a Household whose gross annual Income does not exceed eighty percent of Area Median Income. Low income households include very low income households and extremely low income households.

Moderate Income Household means a Household whose gross annual Income exceeds eighty percent of Area Median Income, but does not exceed one hundred twenty percent of Area Median Income.

Workforce Income Household means a Household whose gross annual Income is between one hundred twenty percent and two hundred percent of Area Median Income. This category is acknowledged in Santa Barbara County as households who need affordable housing due to high area home sales prices.

Housing Unit means a house, an apartment, a manufactured home, a mobile home or trailer, a group of rooms, or a single room occupied as separate living quarters, or, if vacant, intended for occupancy as separate living quarters. Separate living quarters are those in which the occupants live separately from any other individuals in the building and which have direct access from outside the building or through a common hall. For vacant units, the criteria of separateness and direct access are applied to the intended occupants (U.S. Census 2020).

Income means the sum of the amounts reported separately for earnings from employment, public assistance, Social Security, retirement, investments, child support, alimony and any other sources of income received regularly (U.S. Census 2020).

Inland Area. All portions of the land area of Santa Barbara County located outside of the coastal zone.

In-Lieu Fee. Voluntary option for developers of residential projects subject to this chapter to pay fees in-lieu of constructing the otherwise-required affordable housing units as a charge imposed as a condition of property development. The two types of in-lieu fees are as follows:

"Subsidy fee" in-lieu of required very-low and low income category affordable housing units. The amount of funds needed by the county to subsidize a very low or low income unit in the respective HMA, as set by Resolution 04-339 of the board of supervisors based on the 2004 In-Lieu Fee Update Report, adjusted annually based on the percent (%) change in median sale price of condominiums in an HMA over a twelve-month period, per section 46A-6(b).

"Cost of construction fee" in-lieu of required moderate and workforce income category affordable housing units. The estimated cost to build a housing unit calculated as the median sale price of condominiums in an HMA over a twelve-month period less fifteen percent to reflect developer profit, as set by Resolution 04-339 of the board of supervisors based on the 2004 In-Lieu Fee Update Report, and as required by section 46A-6(b).

Maximum Rental Price. The maximum amount of monthly rent per Affordable Housing Unit that does not exceed 30% of 1/12th of the highest percentage of AMI used to define the applicable Household Income Category.

Maximum Sale Price. The highest amount of a sales price per Affordable Housing Unit where the maximum monthly Housing Cost, including mortgage principal, interest, taxes, insurance, and homeowner association dues does not exceed 35% of 1/12th of the highest percentage of AMI used to define the applicable Household Income Category.

Median. A value in an ordered set of values below and above which there is an equal number of values.

Median Household Income. The value at the midpoint of an ordered set of incomes earned by households in a specified geographic area.

Mixed-Use Development. Structural development which is designed and permitted to allow both residential and non-residential uses on the same lot.

Net New Primary Housing Units. The total number of primary housing units that would exist on a project site after development of the proposed project less any primary housing units existing on site at the time the project is proposed.

Ownership Project. Residential developments where deed restricted units built to satisfy affordable housing requirements are owner occupied.

Price-Restricted/Deed Restricted Housing Unit. A Housing Unit with a covenant, deed restriction, and/or other agreement, recorded against title to the real property on which such Housing Unit is situated, that restricts the Maximum Sale Price and/or Maximum Rental Price for such Housing Unit, as applicable. See affordable housing unit(s).

Qualifying Project. A residential housing project where the development and/or rehabilitation of affordable housing and special needs housing projects is included as part of the developer's project description

Rental Project. Residential developments where deed restricted built to satisfy affordable housing requirements are non-owner-occupied rental units.

Senior Citizen or qualifying Resident. Defined by California Civil Code Section 51.3 as a person sixty-two years of age or older, or fifty-five years of age or older in a senior citizen housing development.

Single Room Occupancy (SRO). An accommodation intended for persons to reside within a multi-unit establishment sharing common kitchen and bathroom facilities.

Special Needs Housing. Housing with amenities, physical attributes, and/or services for special needs groups.

Special Needs Groups. Groups of people or households who have unique housing needs. The state and county recognize persons with disabilities, the homeless, the elderly, farm workers, large households, single-parent households, members of the military, and students as having special housing needs that may be unmet in the community.

State Density Bonus Law (SDBL). Refers to California Government Code Sections 65915—65918, which entitle qualified housing projects to a development density increase and at least one development incentive.

Target Household Income. An established percent of the AMI that is within the range of each household income category. Maximum sale and rental prices for affordable housing units are based on each target household incomes for each household income categories.

(Ord. No. 4855, § 1, 5-14-2013)

Sec. 46A-3. - Applicability.

This chapter is enacted pursuant to the general police power of the county and is for the purpose of ensuring that affordable housing units be provided and maintained in an effort to fulfill the public

purpose as required in California Government Code Sections 65300, 65302(c), and 65583(c), and the county's housing element policies.

This chapter is applicable to:

1. Development of five or more net new primary housing units; and/or
2. Subdivisions that would permit the eventual development of five or more net new primary housing units.

This applicability includes lot sale land divisions and airspace condominiums, divisions of agriculturally designated land, projects that qualify for the provisions set forth in State Density Bonus Law on the basis of providing housing for senior citizens ("qualifying residents" per Government Code Section 65915—65918) without regard to affordability, and conversions of five or more existing residential rental units to condominiums, stock cooperatives, or community apartments. If a project or developer receives whole or partial funding from the County's Community Services Department or similar entity, the County may require affordable housing requirements as deemed appropriate as a condition of the provision of funding. These requirements may exceed or differ from the requirements described in this chapter.

The following projects are exempt from this chapter:

1. Projects that qualify for the provisions of State Density Bonus Law by providing price-restricted affordable housing units, provided that such projects shall not be exempt from, and shall be subject to, the affordable housing covenant provisions of this chapter and chapter 46, including, but not limited to Sec. 46-5;
2. Projects located within the Cuyama Housing Market Area;
3. Projects on lots subject to Land Conservation (Williamson) Act contract (Government Code Section 51200 et seq.);
4. Projects on lots zoned Agriculture II (pursuant to section 35-1, section 35-2 or article II of chapter 35, of the Santa Barbara County Code) with a gross lot area of forty acres or greater;
5. Projects constructed by non-profit developers with United States Department of Agriculture funding;
6. Projects which satisfied inclusionary housing requirements per this chapter during a prior phase of the development projects, including lot subdivision;
7. Emergency shelters, transitional housing, and single room occupancy (SRO) projects which are specifically designed to serve extremely-low income households or the homeless population;
8. The reconstruction of any residential units or structures which have been destroyed by fire, flood, earthquake or other act of nature, which are being reconstructed in a manner consistent with the requirements of section 35-1, section 35-2 or article II of chapter 35, of the Santa Barbara County Code;
9. On- or off-site housing which is developed and controlled by employers that is dedicated for sale or rent by their employees; and
10. Existing legal units or lots in a project, except where the rental units are being converted to ownership units such as condominiums, stock cooperatives, or community apartments, except as may be required for the Isla Vista area pursuant to Coastal Land Use Plan Policy 5-10.

(Ord. No. 4855, § 1, 5-14-2013)

Sec. 46A-4. - Inclusionary housing requirements.

- a) Required Portion of Total Housing Units to provide as Inclusionary Price-Restricted Affordable Housing Units by Housing Market Area. The County shall require development projects specified in section 46A-3 to construct a portion of the development as Price-Restricted Affordable Housing Units, where a percentage of the Housing Units proposed shall be price-restricted for each target household income category specified in Table 4.1. Inclusionary Housing Requirements may be satisfied by constructing an equal or greater number of housing units in a lower income category than would otherwise be required in that category, taking into account any current adjustments to zero percent in the moderate and/or workforce income household categories, provided the total percentage of required affordable housing units is constructed.
1. Developments of Twenty or More Lots/Units. For all residential developments of twenty or more net new residential lots or primary residential units, the following percentages of the total units/lots shall be constructed and offered for sale according to section 46A-6 to satisfy inclusionary housing requirements by HMA:

Table 4.1
Inclusionary Housing Requirements

Target Household Income Category	Percent of housing units price-restricted to affordable levels
Very Low	2.5%
Low	2.5%
Moderate	5%
Workforce	5%

- i. County Annual Adjustment of Inclusionary Housing Requirements in Ownership Projects for Moderate Household Income Category. Inclusionary housing requirements for the moderate household income category may be adjusted to zero percent annually by the county within a non-exempt HMA when the median sale price of all housing units within the respective non-exempt HMA over a twelve-month period is affordable to a moderate income household. This adjustment provision shall be determined by the County's Community Services Department in its annual review and adjustment to inclusionary housing requirements, per section 46A-6a.
- ii. County Annual Adjustment of Inclusionary Housing Requirements in Ownership Projects for Workforce Household Income Category. Inclusionary housing requirements for the workforce household income category within Ownership Projects may be adjusted to zero percent annually by the county within a non-

exempt HMA when the median sale price of all housing units within the respective non-exempt HMA over a twelve-month period is affordable to a workforce income household. This adjustment provision shall be determined by the County's Community Services Department in its annual review and adjustment to inclusionary housing requirements, per section 46A-6a.

- iii. County Annual Adjustment of Inclusionary Housing Requirements in Rental Projects for Very low Household Income Category. Inclusionary housing requirements in Rental Projects for the Very low household income category may be adjusted to zero percent annually by the county within a non-exempt HMA when the median rental price of housing units within the respective non-exempt HMA is affordable to a Very low income household. This adjustment provision shall be determined by the County's Community Services Department in its annual review and adjustment to inclusionary housing requirements, per section 46A-6b.
- iv. County Annual Adjustment of Inclusionary Housing Requirements in Rental Projects for Low Household Income Category. Inclusionary housing requirements in Rental Projects for the Low household income category may be adjusted to zero percent annually by the county within a non-exempt HMA when the median rental price of housing units within the respective non-exempt HMA is affordable to a Low income household. This adjustment provision shall be determined by the County's Community Services Department in its annual review and adjustment to inclusionary housing requirements, per section 46A-6b.
- v. County Annual Adjustment of Inclusionary Housing Requirements in Rental Projects for Moderate Household Income Category. Inclusionary housing requirements in Rental Projects for the Moderate household income category may be adjusted to zero percent annually by the county within a non-exempt HMA when the median rental price of housing units within the respective non-exempt HMA is affordable to a Moderate income household. This adjustment provision shall be determined by the County's Community Services Department in its annual review and adjustment to inclusionary housing requirements, per section 46A-6b.
- vi. County Annual Adjustment of Inclusionary Housing Requirements in Rental Projects for Workforce Household Income Category. Inclusionary housing requirements in Rental Projects for the Workforce household income category may be adjusted to zero percent annually by the county within a non-exempt HMA when the median rental price of housing units within the respective non-exempt HMA is affordable to a Workforce income household. This adjustment provision shall be determined by the County's Community Services Department in its annual review and adjustment to inclusionary housing requirements, per section 46A-6b.

2. Developments of Five to Nineteen Lots/Units. For all residential developments of five to nineteen net new residential lots or primary housing units, the developer(s) shall provide one price-restricted unit for rent or for sale at a price does not exceed 30% or 35% respectively of 1/12th of the highest percentage that is Affordable to the moderate household income category. The affordable housing unit shall be constructed and offered for sale or rent according to section 46A-6 to satisfy inclusionary housing requirements by HMA.
- b) Alternative Means to Satisfy Inclusionary Housing Requirements In-Lieu of Construction of Price-Restricted Affordable Housing Units. In-lieu of constructing the required price-restricted affordable housing units, per section 46A-4(a), the developer may voluntarily opt to satisfy inclusionary housing requirements through one or a combination of the following alternatives:
1. Payment of In-Lieu Inclusionary Housing Fees. Inclusionary housing requirements as required by section 46A-4(a) may be satisfied with the payment of fees in-lieu of construction of required price-restricted affordable housing units as a charge imposed as a condition of property development. Developers who elect to satisfy inclusionary housing requirements by paying in-lieu fees shall do so as described below.
 - a. Developments of Twenty or More Lots/Units. For all residential developments of twenty or more net new residential lots or primary residential housing units, the developer(s) may elect to:
 - i. Pay the in-lieu fee for the very low and low income categories, which shall be the subsidy fee as defined in section 46A-2 and published annually by the County's Community Services Department; and
 - ii. Pay the in-lieu fee for the moderate and workforce income categories, which shall be the cost-of-construction fee as defined in section 46A-2 and published annually by the County's Community Services Department.
 - b. Developments of Five to Nineteen lots/units. For all residential developments of five to nineteen net new residential lots or primary residential housing units, the developer(s) may elect to:
 - i. Pay an in-lieu fee equal to the sum of five percent (5%) of the pro-rated in-lieu fee calculated for each household income category inclusionary housing requirement specified by section 46A-4(a)(1) by HMA, multiplied by the total number of new dwelling units of the proposed residential development.

In lieu fees shall be adjusted annually, presented to the board of supervisors, and made publicly available by the County's Community Services Department, per section 46A-6.

2. Construction of Onsite Accessory Dwelling Units (ADUs) for Workforce Household Income Category Inclusionary Housing Requirements. Inclusionary housing requirements for workforce household income categories as required by section 46A-4(a) may be satisfied with the construction of ADUs as part of the required percentage of inclusionary primary residential units in-lieu of construction of required price-restricted affordable housing units, in compliance with the applicable requirements of section 35-1, section 35-2, or article II of chapter 35, Zoning, of the Santa Barbara County Code. Development permitted

with ADUs to satisfy inclusionary housing requirements do not require sales price, deed, or occupancy restrictions.

- c) Methods of Compliance. A developer shall comply with inclusionary housing requirements, defined by section 46A-4(a), in the following methods as a condition of approval of the project:

1. Inland Area.

a. All Income Categories. Inclusionary housing requirements may be satisfied by any of the following:

1. construction of price-restricted affordable housing units on the site of, and concurrently with the construction of, such project;
2. payment of in-lieu inclusionary housing fees in accordance with section 46A-4(b)(1);
3. construction of onsite ADUs for the workforce income category requirement in compliance with the applicable requirements of section 35-1 or section 35-2 of chapter 35 of the Santa Barbara County Code; or
4. a combination of the options set forth in subparts 1 through 3, above, of this section 46A-4(c)(1)(a) that is acceptable to the County, and or State of California.

2. Coastal Zone. Pursuant to Government Code Sections 65590—65590.1.

a. Very Low, Low and Moderate Income Categories. Inclusionary housing requirements for very-low, low and moderate income housing shall, where feasible, as determined by the County, be satisfied with construction of price-restricted affordable housing units on the project site. Where such construction of price-restricted affordable housing units on the project site is not feasible, as determined by the County, the inclusionary housing requirements for very-low, low and moderate income housing shall be satisfied by the lawful construction by developer of price-restricted affordable housing units at another location in the county within the coastal zone or within three miles thereof. In rare and limited circumstances, where the lawful construction by developer of price-restricted affordable housing units is not feasible, as determined by the County, within three miles of the coastal zone, inclusionary housing requirements for very-low, low and moderate income housing shall be satisfied with the payment to the County by the developer of in-lieu inclusionary housing fees in accordance with section 46A-4(b)(1).

b. Workforce Income Categories. Inclusionary housing requirements for workforce housing may be satisfied by any of the following:

1. the construction of price-restricted affordable housing units on the project site;
2. payment of in-lieu inclusionary housing fees in accordance with section 46A-4(b)(1);
3. the lawful construction by developer on the project site of ADUs in compliance with the applicable requirements of section 35-1 or section 35-2 of chapter 35 of the Santa Barbara County Code; or

4. a combination of the options set forth in subparts 1 through 3, above, of this section 46A-4(c)(2)(b) that is acceptable to the County and or the State of California.
3. Price Restriction Requirements. Each price-restricted affordable housing unit constructed to fulfill inclusionary housing requirements shall comply with the sales and rental price restriction set forth in the agreement and covenant required by section 46A-6(e), below, for the lesser of:
 - i. a period of ninety years commencing upon issuance of a certificate of occupancy issued by a government agency of competent jurisdiction for such affordable housing unit; or
 - ii. the maximum period allowable under applicable law.
4. Fractional Units. For all residential developments of twenty or more net new residential lots or primary residential units, if the number of price-restricted affordable housing units required for a project includes a fraction of a unit, the developer shall:
 - a.Round any decimal fraction less than 0.5 down to the nearest whole unit, or round any decimal fraction of 0.5 or more up to the nearest whole unit for purposes of construction of the affordable housing units; or
 - b.Pay a pro-rated in-lieu inclusionary housing fee for the fractional unit.
5. Timing.
 - a.Determination of Inclusionary Housing Requirements per project. The County's Planning and Development Department shall determine and set forth in a completeness determination letter to the developer(s) of a project subject to this chapter the inclusionary housing requirements applicable to such project, per section 46A-4a, based on the inclusionary housing requirements in place at the time and published by the County's Community Services Department, per section 46A-6. If a project application is withdrawn by a developer and resubmitted to the County Planning and Development Department during the development review process, the County Planning and Development Department shall update the inclusionary housing requirements for the project based on the inclusionary housing requirements in effect as of the date of issuance of the completeness determination letter to the developer(s) of such project.
 - b.Construction of Affordable Housing Units and/or ADUs. All required price-restricted affordable housing units and ADUs in a project shall be constructed contemporaneously with the non-price-restricted housing units in the project based on the ratio of price-restricted affordable housing units and ADUs to proposed market-rate units, unless otherwise approved by the county.
 - c. Payment of In-lieu Fees.
 - i. Projects that Include Construction of Housing Units. In-lieu housing fees shall be paid prior to the issuance of a building permit for the project. For phased-construction developments, payment of the applicable in-lieu fees shall be made for each portion of the project prior to the issuance of a building permit for that phase of the project. In the event that the

developer intends to pay the in-lieu fee from proceeds of a commercial lender, and such lender requires the issuance of a building permit prior to funding the construction loan, the developer may request that the Director of the County's Planning and Development Department issue the building permit prior to payment of the fee. The Director of the County's Planning and Development Department may approve such request provided the developer agrees in writing that the fee will be paid within ten days after the issuance of the building permit, and further agrees that the building permit will be deemed revoked by the county and work undertaken pursuant to the building permit stopped if the in-lieu fee is not paid within such ten-day period.

- ii. Projects that Include only Residential Lot Subdivisions or Condominium Conversions. In-lieu housing fees shall be paid prior to map recordation. If a project qualifies for a fee reduction, map recordation must occur within sixty days of the reduced in-lieu fee payment.

(Ord. No. 4855, § 1, 5-14-2013)

Sec. 46A-5. - Incentives for inclusionary housing.

The following incentives within the limitations of Government Code Section 65915(n) shall be offered to developers who comply with or exceed the requirements of this chapter:

- a) Density Bonus. Density bonus allows for additional units over the otherwise maximum allowable density authorized in the base zone district. Paying fees and/or constructing onsite ADUs to satisfy a portion of the inclusionary housing requirements in addition to building units onsite shall not prevent a project from receiving the applicable density increase for those affordable housing units that are built onsite. This density increase shall be guaranteed and granted except in the rare case where the county can make findings that all or a portion of the additional units allowed over base density would have a specific, significant impact upon the provision of public health and safety and there is no feasible method to satisfactorily mitigate the specific significant impact other than reducing or eliminating the density increase incentive. Prior to making any findings to reduce or eliminate this density increase incentive, the county shall work with the developer on a case-by-case basis to generate comparably attractive replacement incentives to the extent feasible, such as zoning lot line setback and/or building height modifications, development impact fee reductions, fast-track processing, development fee reductions, and/or other configurations of bonus density incentives.
 1. Inland Area. Projects shall receive a density increase of one unit over base density for each required moderate and/or workforce affordable housing unit built onsite consistent with section 46A-4 of this chapter. If fractional inclusionary requirements are met by rounding up for the purposes of construction, per section 46A-4(c)(4), the project shall receive a one unit over base density increase for each moderate and/or workforce unit constructed onsite.

2. Coastal Zone. Projects shall receive a density increase of one unit over base density for each required affordable housing unit built onsite consistent with section 46A-4 of this chapter. If fractional inclusionary requirements are met by rounding up for the purposes of construction, per section 46A-4(c)(4), the project shall receive a one unit over base density increase for each affordable unit constructed onsite.

b) Zoning Modifications. The county shall consider a request to modify the zoning requirements specified in the applicable zone that will facilitate the bonus density incentive granted by section 46A-5(a), pursuant to section 35-1, section 35-2 or article II of chapter 35, of the Santa Barbara County Code. In addition, the common and/or public open space requirement may be reduced from forty percent to a minimum of twenty-five percent of gross acreage for projects in the Design Residential (DR) Zone District.

(Ord. No. 4855, § 1, 5-14-2013)

Sec. 46A-6. - Implementation.

The provisions of this chapter shall be implemented by the county in accordance with the Housing Element, County Code Chapter 46, and all other applicable federal, state, and local laws. Implementation involves the following general areas described in the section:

a) Annual Adjustment of Inclusionary Housing Requirements. The inclusionary housing requirements, per section 46A-4, shall be reviewed annually by the County's Community Services Department. Inclusionary housing requirements within Ownership Projects for moderate and/or workforce household income categories may be waived entirely by the County when the monthly mortgage payment for the median sale price of all housing units in each non-exempt HMA over a twelve-month period does not exceed 35% of 1/12th of the annual gross income of highest income percentage within the moderate and/or workforce income categories. The determination of residential market affordability by HMA for ownership units shall incorporate the following factors into the calculation provided in Table 6.1, as follows:

1. Loan term, at thirty-year fixed rate with five percent down payment.
2. Average annual percentage rate, as reported by the Federal Home Loan Mortgage Corporation over twenty-four weeks of Weekly Primary Mortgage Market Survey® results for a thirty-year fixed rate mortgage term.
3. Annual property tax, at one and two-tenths percent (1.2%) of the median home sales price in such HMA.
4. Insurance, at seven-tenths percent (0.7%) of the median home sales price in such HMA.

Table 6.1
Monthly Mortgage Payment for Purchase Median Home Sales Price Calculation

Line	Item	Formula
1	Term in years	Fixed 30 years
2	Housing unit sales price	Enter median sales price of all housing unit sales over 12 months by HMA
3	Annual percentage rate	Enter 24-week average Annual Percentage Rate
4	Initial balance	Line 2 - (Down Payment)
5	Term in months	Line 1 x 12
6	Monthly annuity rate	Line 3/12
7	Exponential factor	$(1.0 + \text{Line 6}) ^ (\text{Line 5})$
8	Subtotal monthly mortgage payment	$(\text{Line 4}) * (\text{Line 6}) * (\text{Line 7}) / (\text{Line 7} - 1.0)$
9	Monthly property tax	$(\text{Line 2} \times 1.2\%) / 12$
10	Monthly insurance	$(\text{Line 2} \times 0.7\%) / 12$
11	Total monthly housing unit purchase cost	Line 8 + Line 9 + Line 10

Table 6.2
Maximum Affordable Monthly Mortgage Payment by Household Income Category

Line	Item	Formula
12	Very-Low income household	$((\text{AMI} \times 50\%) \times 35\%) / 12$
13	Low income household	$((\text{AMI} \times 80\%) \times 35\%) / 12$
14	Moderate income household	$((\text{AMI} \times 120\%) \times 35\%) / 12$
15	Workforce income household	$((\text{AMI} \times 200\%) \times 35\%) / 12$

If Line 14 > Line 11, inclusionary housing requirements for the ownership moderate household income category may be waived.

If Line 15 > Line 11, inclusionary housing requirements for the ownership workforce household income category may be waived.

The Inclusionary housing requirements within Rental Projects for very low household income categories may be waived entirely by the county when the median rental price of housing units in a non-exempt HMA is affordable to very low household income categories. The Inclusionary housing requirements within Rental Projects for low household income categories may be waived entirely by the county when the median rental price of housing units in a non-exempt HMA is affordable to low income categories. The Inclusionary housing requirements within Rental Projects for moderate household income categories may be waived entirely when the median rental price of housing units in a non-exempt HMA is affordable to moderate household income categories. The Inclusionary housing requirements for workforce household income categories may be waived entirely by the county when the median rental price of housing units in a non-exempt HMA is affordable to workforce household income categories. Projects which have a combination of owner-occupied housing units and tenant-occupied housing units will have Inclusionary housing requirements applied to the ownership portion of the project according to ownership affordability levels as described in Sec. 46A-4, and have Inclusionary housing requirements applied to the rental portion of the project according to the rental affordability levels as described in Sec. 46A-4. The determination of residential market affordability by HMA for rental units shall incorporate the following factors into the calculation provided in Table 6.3, as follows:

Table 6.3
Maximum Affordable Monthly Rental Payment by Household Income Category

Line	Item	Formula
1	Very-low income household	$((\text{AMI} \times 50\%) \times 30\%)/12$
2	Low-income household	$((\text{AMI} \times 80\%) \times 30\%)/12$
3	Moderate income household	$((\text{AMI} \times 120\%) \times 30\%)/12$
4	Workforce income household	$((\text{AMI} \times 200\%) \times 30\%)/12$

If Line 1 > Median Rent per Housing Market Area, inclusionary housing requirements for a rental project's very low income household category may be waived.

If Line 2 > Median Rent per Housing Market Area, inclusionary housing requirements for a rental project's low income household category may be waived.

If Line 3 > Median Rent per Housing Market Area, inclusionary housing requirements for a rental project's moderate income household category may be waived.

If Line 4 > Median Rent per Housing Market Area (HMA), inclusionary housing requirements for a rental project's workforce income household category may be waived.

Median Rents, per HMA shall be published annually by HCD in the Annual In-Lieu Fee Update, and posted on County HCD's website.

As appropriate, this adjustment shall be determined by the County's Community Services Department in an annual review of inclusionary housing requirements after July 1 of each fiscal year, beginning after July 1, 2012. Any adjustment to the inclusionary housing requirements of ownership projects shall be based on home sales price records for each HMA over a twelve-month period as recorded by the county assessor. Any adjustment to the inclusionary housing requirements of rental projects shall be based on median rental price, per housing market area. The inclusionary housing requirements and any needed adjustments per this chapter shall be received and filed by the board of supervisors no later than August 31 of each fiscal year. Adopted inclusionary housing requirements shall be made publicly available from the Community Services department within ten days of finalization of the inclusionary housing requirement schedule.

b) Expenditure and Annual Adjustment of In-Lieu Inclusionary Housing Fees.

1. Expenditure and Reporting of Collected In-Lieu Inclusionary Housing Fees. In-lieu inclusionary housing fees paid pursuant to section 46A-4(b)(3) shall be deposited in the County HCD's housing trust fund and used for Qualifying Projects. Fees collected in-lieu of construction of Affordable Housing Units shall be spent on qualifying projects located either:

- a. Within the HMA from which the fees were collected, or
- b. Within the South Coast HMA.

The Fund shall be administered by the County's Community Services Department. The Director of the County's Community Services Department shall report annually to the board of supervisors on the status of activities undertaken with the fund, per County Code chapter 46.

2. The in-lieu inclusionary housing fees for each HMA shall continue to be updated annually and presented to the board of supervisors by the County's Community Services Department. Each in-lieu fee set by the ordinance codified in this chapter shall be adjusted after July 1st of each fiscal year, beginning after July 1, 2012, based on home sales price records for each HMA over a twelve-month period as recorded by the county assessor. The in-lieu inclusionary housing fees and any needed adjustments per this chapter shall be received and filed by the board of supervisors no later than August 31 of each fiscal year. In-lieu fee amounts shall be made publicly available by the County's Community Services Department within ten days of finalization of the in-lieu inclusionary housing fee schedule. Each in-lieu fee shall be adjusted as follows:

- a. Subsidy Fee Annual Adjustment. The subsidy fee shall be adjusted by the percent change in the median sale price of all condominiums in an HMA over the immediately preceding twelve-month period. For each HMA, the median value shall be calculated for the prior twelve-month range of condominium sales prices as provided by the County of Santa Barbara Assessor/Recorder.
- b. Cost of Construction Fee Annual Adjustment. The cost of a project cost of construction fee shall be adjusted to the estimated cost to build a housing unit calculated as the median sale price of condominiums in an HMA over the immediately preceding twelve month period, less fifteen percent to reflect developer profit. For each HMA, the median value shall be calculated for the prior twelve-month range of condominium sales prices as provided by the County of Santa Barbara Assessor/Recorder.

c) Affordable Housing Formulas

1. Target Household Income Range and Targets. As defined by section 46A-2, household income categories and the target household income as percent of AMI are used to calculate maximum sale and maximum rental prices for a price-restricted unit are as follows:

Table 6.4
Affordability Ranges and Targets

Household Income Category	Household Income Ranges	Target Household Income as Percent of AMI
Very low	50% or less	50%
Low	51-80%	75%
Moderate	81-120%	110%
Workforce	121-200%	160%

2. Income Formula for Affordable Housing. The maximum affordable income formula used for purposes of determining eligibility for affordable housing for each income category and household size shall be calculated as follows:

Table 6.5

Income Formula for Affordable Housing

AMI × Percent of AMI (for the relevant household income category)

×

Household Size Adjustment Factor (see Table 6.6)

The area median income shall be adjusted for household size when determining household eligibility for affordable housing purchase using the following household size adjustment factors:

Table 6.6
Household Size Adjustment Factors

Household Size (No. of persons)	Adjustment Factor
1	0.7
2	0.8
3	0.9
4	1.0
5 or more	1.08

3. Maximum Sales Price Calculation. The maximum sales price for deed restricted affordable housing units shall assume a thirty-year fixed interest rate mortgage and shall be calculated through the following formulas where all payments are assumed to be monthly:

Table 6.7
Affordable Housing Unit Sales Price Formula

Affordable Mortgage Amount + 5% Down Payment (Round to the nearest hundred dollars.)

Formula 6-1

where:

$$\text{Affordable Mortgage Amount} = \text{Affordable Monthly Mortgage Payment} \times ((1 + R \text{ value})^{360 \text{ payments}} - 1) \div ((R \text{ value}) \times (1 + R \text{ value})^{360 \text{ payments}})$$

$$R \text{ value} = \text{Annual Mortgage Interest Rate} \div 12 \text{ months}$$

Formula 6-2

where:

$$\text{Affordable Monthly Mortgage Payment} = (35\% \times (\text{Target Household Income} \div 12 \text{ months})) - (\text{Insurance Payment} + \text{Property Tax Payment} + \text{HOA Dues})$$

4. Maximum Rental Price Calculation. The maximum monthly rental price for each price-restricted unit shall be calculated in accordance with the formulas set forth in Table 6.8, below, and using the Housing Unit Size Adjustment Factors set forth in Table 6.9, below:

Table 6.8
 Affordable Housing Unit Rental Price Formula

Formula 6-3

$$\text{Maximum Allowable Monthly Rent} = \text{Maximum Income per Income Category} [(\% \text{ of AMI}) \times \text{Unit Size Adjustment Factor} \times 30\%] / 12 \text{ months}$$

Example:

Very Low-Income Category	$[(50\% \times \text{AMI}) \times \text{Unit Size Adjustment Factor} \times 30\%] / 12 \text{ months}$
Studio unit	$(.5 \times \$119,100 \times .7 \times .3) / 12$, rounded to the nearest \$10
One Bedroom unit	$(.5 \times \$119,100 \times .8 \times .3) / 12$, rounded to the nearest \$10
Two Bedroom unit	$(.5 \times \$119,100 \times .9 \times .3) / 12$, rounded to the nearest \$10
Three Bedroom unit	$(.5 \times \$119,100 \times 1.0 \times .3) / 12$, rounded to the nearest \$10
Four Bedroom unit	$(.5 \times \$119,100 \times 1.0625 \times .3) / 12$, rounded to the nearest \$10

Formula 6-4

5. Housing Unit Size Adjustment Factors. Maximum Allowable Monthly Rent and Maximum Sale Price shall be calculated using Unit Size Adjustment Factors in accordance with Table 6.9, below:

Table 6.9
Housing Unit Size Adjustment Factors

Unit Size (No. of Bedrooms)	Unit Size Adjustment Factor
Studio	0.7
1	0.8
2	0.9
3	1.0
4 or more	1.0625

d) **Conditions of Approval.** Each residential housing Ownership or Rental Project subject to this chapter shall be processed by the County Planning and Development Department with conditions of approval requiring that agreements and covenants specifying the inclusionary housing requirements applied to the project be recorded with the County Clerk-Recorder against title to the real property on which such project is located.

Such conditions of approval shall:

1. Specify the means of project owner and developer compliance with this chapter by providing the required price-restricted affordable housing units, or the alternatives of the payment of in-lieu fees for use in the development of Affordable Housing Units, and/or the construction of onsite ADUs for the workforce income category requirement only; and
2. Require the project owner(s) and developer(s) to offer project affordable housing unit(s) for sale or rent for a term of ninety years without exceeding the maximum sale or rent prices set by the County Community Services Department for the year of sale or lease; and
3. Ensure that all current and future owners and tenants are fully informed of and held accountable to all applicable inclusionary housing requirements, transfer restrictions, and rent restrictions; and
4. Specify household income levels and time limits for the deed restriction, and
5. If deemed appropriate by the County and consistent with applicable fair housing laws, allow that preference be given in the selection of potential occupants of affordable housing units in accordance with County policies, including, but not limited to:

- a. A preference for households and occupants who work in close proximity to the affordable housing site to minimize traffic congestion and air quality degradation.
 - b. A preference for households and occupants who are employed within the county.
- e) Recordation and Construction. For each project subject to this chapter, the owner of the real property on which such project is located shall timely record with the County Clerk-Recorder the following agreements and covenants with respect to such real property:
 - 1. All affordable housing agreements and covenants required by conditions on such project that include a tract map shall be recorded with the County Clerk-Recorder prior to final recordation of such tract map; and
 - 2. All affordable housing agreements and covenants required by conditions on such project that do not include a tract map shall be recorded with the county clerk-recorder before prior to land use clearance.

All affordable housing agreements and covenants required by Project conditions of approval on housing developments subject to this Chapter shall be drafted by County staff, reviewed by county counsel, signed by all parties, executed and approved by the County board of supervisors, and recorded with the County Clerk-Recorder's Office against title the real property on which such Project is located with all of the following documentation.

- 1. Agreement to Provide Affordable Housing. The agreement to provide affordable housing shall be prepared by the County's Community Services Department. Recorded agreements shall bind the property owners to maximum sales price requirements for the time period required by law and county policy, and shall include:
 - i. The number of affordable housing units, their size, their affordability level, and the applicable income level restrictions; and
 - ii. Marketing and lottery requirements.
- 2. Resale Restrictive Covenant and Preemptive Right. A resale restrictive covenant and preemptive right shall be appended to the Agreement to Provide Affordable Housing and recorded concurrently therewith, and shall include, but not be limited to, provisions to effect all of the following:
 - i. Secure the sales or rental price restrictions for ninety (90) years, or less if required by State or Federal law.
 - ii. Ensure subsequent sales or lease of an individual price-restricted affordable housing unit may only be to income-qualified households and at prices within the target or maximum household income range.
 - iii. Require both a notice of default be recorded on the property title so the county may monitor subsequent sales and exercise its first right of refusal when a property is offered for sale.

iv. Specify that affordable housing units must be occupied Full Time by the owner or tenant who has qualified for the affordable home, although other household occupants are allowed. The covenant also limits the owners' ability to offer the price restricted home for rent and establishes the resale conditions for the affordable housing unit. The covenant further specifies the enforcement terms for violations. Subletting any portion of the affordable housing unit is prohibited except under special circumstances and with the approval of the County's Community Services Department.

f) Monitoring and Maintenance. The County's Community Services Department shall be responsible for monitoring and maintaining the county inventory of price-restricted deeds and affordable housing units, consistent with County Code chapter 46.

(Ord. No. 4855, § 1, 5-14-2013)

Sec. 46A-7. - Adjustments, reductions, and waivers.

A developer of any project subject to inclusionary housing requirements pursuant to this chapter may appeal to the county for a reduction, adjustment, or waiver of any inclusionary housing requirement of section 46A-4 and conditioned as part of project approval. The appeal shall be processed in accordance with Section 35.102 of the County Land Use and Development Code, Section 35.492 of the Montecito Land Use and Development Code, or section 35-182 of article II of the County Code.

(Ord. No. 4855, § 1, 5-14-2013)

Sec. 46A-8. - Severability.

If any provision, clause, sentence or paragraph of this chapter, or application thereof to any person or circumstances, be held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provisions or application and to this end, the provisions of this chapter are declared to be severable.

(Ord. No. 4855, § 1, 5-14-2013)

PASSED, APPROVED, AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, on this 18th day of March, 2025 by the following vote:

AYES: Supervisors Lee, Capps, Hartmann and Lavagnino

NAYES: Supervisor Nelson

ABSENT: None

ABSTAIN: None

ATTEST:

COUNTY OF SANTA BARBARA

MONA MIYASATO

COUNTY EXECUTIVE OFFICE

CLERK OF THE BOARD

By: Shiele de la Guerra
Deputy Clerk

By: 
Laura Capps, Chair
Board of Supervisors

APPROVED AS TO FORM:

Rachel Van Mullem

Signed by:

County Counsel

By: Lauren Wideman
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Deputy County Counsel, Lauren Wideman