INCLUSIONARY HOUSING ORDINANCE

ORDINANCE NO. 4855

AN ORDINANCE OF THE COUNTY OF SANTA BARBARA AMENDING CHAPTER 46 OF THE COUNTY CODE, ADDING CHAPTER 46A TO THE COUNTY CODE, IMPLEMENTING HOUSING ELEMENT POLICIES AND REGULATIONS FOR INCLUSIONARY HOUSING REQUIREMENTS, AND MAKING OTHER MINOR CLARIFICATIONS, CORRECTIONS AND REVISIONS.

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SECTION 1:

The Board of Supervisors of the County of Santa Barbara ordains as follows:

Chapter 46A- Inclusionary Housing

Section 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.

Section 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:

Affordable Housing. The product of the area median income (AMI) adjusted for family size appropriate for the affordable housing unit, as defined by the California Health & Safety Code Section 50052.5 as that

Section now appears and may be amended or renumbered where a household can afford to pay to purchase a housing unit without being overly cost burdened, and where total cost of housing is not more than 30% of gross annual household income.

Affordable Housing Unit(s). Residential units that can be purchased by households whose gross annual household income does not exceed 200% of area median income, adjusted for household size. 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.

Area Median Income (AMI). The median family 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, adjusted for family size. The AMI for a household of four is updated and released annually by the U.S. Department of Housing and Urban Development (HUD). The State of California Housing and Community Development Department (HCD) adopts AMI for each county in California after applying an adjustment factor to calculate the AMI for different household sizes.

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/Resident. Use of a housing unit as a primary residence at least 10 months out of a calendar year.

Housing Market Area (HMA). As defined by resolution of the Board of Supervisors, 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 (5) 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 2010).

Household Income Categories. The following definitions delineate the range of household income categories for purposes of this chapter:

> **Extremely low income household:** Persons or families, as defined in California Health & Safety Code Section 50106 as that Section now appears and may be amended or renumbered, whose incomes do not exceed 30 percent of area median income, adjusted for family size.

Very low income household: Persons or families, as defined in California Health & Safety Code Section 50105 as that Section now appears and may be amended or renumbered, whose incomes do not exceed 50 percent of area median income, adjusted for family size. Very low income households include extremely low income households.

Low income household: Persons or families, as defined in California Health & Safety Code Section 50079.5 as that Section now appears and may be amended or renumbered, whose income does not exceed 80 percent of area median income, adjusted for family size. Low income households include very low income households and extremely low income households.

Moderate income household: Persons or families, as defined in California Health & Safety Code Section 50093 as that Section now appears and may be amended or renumbered, whose income exceeds the income limit for lower income households but does not exceed 120 percent of area median income, adjusted for family size.

Workforce income household. Persons or families whose income is between 120 percent and 200 percent of area median income, adjusted for family size. This category is acknowledged in Santa Barbara County as households who need affordable housing due to high area home sales prices.

Housing Unit. 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 2010).

Income. Refers to 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 2010).

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. Two types of in-lieu fees include:

"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 15% 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 sale price. The highest amount per unit in each household income category that is affordable to a hypothetical buyer in that 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.

Price-restricted/Deed Restricted Housing. Housing with a covenant, deed restriction, and/or other provisions that restrict the allowed sale price. See *Affordable Housing Unit(s)*.

Senior Citizen or **Qualifying Resident.** Defined by California Civil Code §51.3 as a person 62 years of age or older, or 55 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 prices for affordable units are based on each target household incomes for each household income categories.

Section 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 (5) or more net new primary housing units, and/or
2. subdivisions that would permit the eventual development of five (5) 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. 100% rental projects;
2. Rental housing which is otherwise part of an ownership project;
3. Projects that qualify for the provisions of *State Density Bonus Law* by providing price-restricted affordable housing units;
4. Projects located within the Cuyama Housing Market Area;
5. Projects on lots subject to Land Conservation (Williamson) Act contract (Government Code Section 51200 et seq.);
6. 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 40 acres or greater,
7. Projects constructed by non-profit developers with United States Department of Agriculture funding;
8. Projects which satisfied inclusionary housing requirements per this Chapter during a prior phase of the development projects, including lot subdivision;
9. Mixed-use development projects which include less than 10 residential units;
10. Emergency shelters, transitional housing, and single room occupancy (SRO) projects which are specifically designed to serve extremely-low income households or the homeless population;
11. 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;
12. On- or off-site housing which is developed and controlled by employers that is dedicated for sale or rent by their employees; and
13. 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.

Section 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 (HMA)

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 percent (%) 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 0% in the Moderate and/or Workforce income household categories, provided the total percentage of required affordable housing units is constructed.

1. **Developments of Twenty (20) ~~Ten (10)~~ or more lots/units**: For all residential developments of twenty (20) ~~ten (10)~~ 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 for Moderate Household Income Category**: Inclusionary housing requirements for the moderate household income category may be adjusted to 0% 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 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 for Workforce Household Income Category**: Inclusionary housing requirements for the workforce household income category may be adjusted to 0% 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 Community Services Department in its annual review and adjustment to inclusionary housing requirements, per Section 46A-6a.

2. **Developments of Five (5) to Nineteen (19) lots/units**: For all residential developments of five (5) to nineteen (19) net new residential lots or primary residential units, the developer(s) shall provide one (1) unit price-restricted to a level which is affordable to the moderate household income category. The affordable housing unit shall be constructed and offered for sale 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 (20) ~~Ten (10)~~ or more lots/units**: For all residential developments of twenty (20) ~~ten (10)~~ or more net new residential lots or primary residential 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 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 Community Services Department.

b. **Developments of Five (5) to Nineteen (19) lots/units**: For all residential developments of five (5) to nineteen (19) net new residential lots or primary residential 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/lots of the proposed residential development.

In lieu fees shall be adjusted annually, presented to the Board of Supervisors, and made publicly available by the Community Services Department, per Section 46A-6.

2. Construction of Onsite Residential Second Units (RSU) 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 residential second units (RSUs) 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 RSUs 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 shall be satisfied with the construction of price-restricted affordable housing units onsite, unless. the developer opts for the payment of in-lieu inclusionary housing fees, the construction of onsite residential second units (RSU) for the workforce income category requirement only in compliance with the applicable requirements of Section 35-1or Section 35-2 of Chapter 35, Zoning, of the Santa Barbara County Code, or a combination of these options in-lieu of construction of required price-restricted affordable housing units.

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, be satisfied with construction of price-restricted affordable housing units onsite. Where this is not feasible, the inclusionary housing requirements for very-low, low and moderate income housing shall be satisfied at another location in the County within the Coastal Zone or within three miles thereof. In rare and limited circumstances, where neither of these methods is

feasible, inclusionary housing requirements for very-low, low and moderate income housing shall be satisfied with the payment of in-lieu inclusionary housing fees.

b. **Workforce Income Categories**: Inclusionary housing requirements for workforce housing shall be satisfied with the construction of price-restricted affordable housing units onsite, unless the developer opts for the payment of in-lieu inclusionary housing fees, the construction of onsite residential second units (RSU) in compliance with the applicable requirements of Section 35-1or Section 35-2 of Chapter 35, Zoning, of the Santa Barbara County Code, or a combination of these options in-lieu of construction of required price-restricted affordable housing units.

3. **Price Restriction Requirements** – Price-restricted affordable housing units constructed to fulfill inclusionary housing requirements shall retain the sales price restrictions for 45 years, restarting for up to 90 years upon resale of the unit.

4. **Fractional Units** – For all residential developments of twenty (20) ~~ten (10)~~ 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 Planning and Development Department shall determine the inclusionary housing requirements, per Section 46A-4a, in the completeness determination letter to developers of projects subject to this chapter based on the inclusionary housing requirements in place at the time and published by the Community Services Department, per Section 46A-6. If a project is withdrawn and resubmitted during the development review process, the Planning and Development Department shall update the inclusionary housing requirements for the project based on the inclusionary housing requirements in place at the date of issuance of the completeness determination letter to developers of the project.

   b. **Construction of Affordable Housing Units and/or Residential Second Units** – All required price-restricted affordable housing units and/or residential second units shall be constructed in proportionate timing with the market-rate units based on the ratio of price-restricted affordable housing units and/or residential second units 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 Planning and Development Director issue the building permit prior to

payment of the fee. The Planning and Development Director may approve such request provided the developer agrees in writing that the fee will be paid within ten (10) 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 (60) days of the reduced in-lieu fee payment.

Section 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 RSUs 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 40% to a minimum of 25% of gross acreage for projects in the Design Residential (DR) Zone District.

Section 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 Community Services Department. Inclusionary housing requirements for moderate and/or workforce household income categories may be waived entirely by the County when the median sale price of all housing units in each non-exempt HMA over a twelve month period is affordable to either moderate and/or workforce income categories. The determination of residential market affordability by HMA shall incorporate the following factors into the calculation provided in Table 6.1:

1. **Loan Term,** at 30-year fixed rate with 5% down payment
2. **Average Annual Percentage Rate (APR),** as reported by the Federal Home Loan Mortgage Corporation (Freddie Mac) over twenty-four (24) weeks of Weekly Primary Mortgage Market Survey® (PMMS®) results for a 30 year fixed rate mortgage term in the western region of the United States.
3. **Average Points and/or Fees,** as reported by the Federal Home Loan Mortgage Corporation (Freddie Mac) over twenty four (24) weeks of Weekly Primary Mortgage Market Survey® (PMMS®) results for a 30 year fixed rate mortgage term in the western region of the United States.
4. **Annual Property Tax,** at 1.2% of median home sales price.
5. **Insurance,** at 0.7% of median home sales price.

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 (APR)	Enter 24-week average APR*
4	Initial Balance	Line 2 - (Down Payment** + Average Points at Closing***)
5	Term in Months	Line 1 x 12
6	Monthly Annuity Rate	Line 3/12
7	Exponential Factor	(1.0 + Line 6)^(Line 5)****
8	Subtotal Monthly Mortgage Payment	(Line 4)*(Line 6)*(Line 7)/(Line 7 - 1.0)
9	Monthly Property Tax	(Line 2 x 1.2%)/12
10	Monthly Insurance	(Line 2 x 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	Moderate Income Household	((AMI x 120%) x 30%)/12
13	Workforce Income Household	((AMI x 200%) x 30%)/12

If Line 12 > Line 11, Inclusionary Housing Requirements for the Moderate Income Household Category may be waived

If Line 13 > Line 11 Inclusionary Housing Requirements for the Workforce Income Household Category may be waived

As appropriate, this adjustment shall be determined by the Community Services Department in an annual review of inclusionary housing requirements after July 1st of each fiscal year, beginning after July 1, 2012. Any adjustment to the inclusionary housing requirements shall be based on home sales price records for each HMA over a twelve-month period as recorded by the County Assessor. 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 31st of each fiscal year. Adopted inclusionary housing requirements shall be made publicly available from the Community Services Department within ten (10) 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's Housing Trust Fund (Fund) and used for qualifying projects where the development and/or rehabilitation of affordable housing and special needs housing projects is included as part of the project description. Fees collected in-lieu of construction of price-restricted 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 Community Services Department. The Community Services Department Director shall report annually to the Board of Supervisors on the status of activities undertaken with the Fund, per County Code Chapter 46.

2. Annual In-Lieu Fee Adjustments Requirements

In 2004, the Board of Supervisors adopted the following fees to be charged per affordable unit by HMA in-lieu of inclusionary housing requirements to construct affordable housing units as a charge imposed as a condition of property development set by Resolution 04-339 of the Board of Supervisors based on the 2004 In-Lieu Fee Update Report. The County adjusts each fee annually as defined in Section 46A-2.

Table 6.3: Inclusionary Housing In-Lieu Fees per Affordable Housing Unit by HMA

	South Coast HMA	Santa Ynez HMA	Santa Maria HMA	Lompoc HMA
Very Low and Low	$110,000	$110,000	$80,000	$80,000
Moderate and Workforce	$422,700	$324,700	$205,700	$182,800

The In-Lieu Inclusionary Housing Fees for each HMA shall continue to be updated annually and presented to the Board of Supervisors by the Community Services Department. Each in-lieu fee set by this ordinance shall be adjusted after July 1st of each fiscal year, beginning after July 1, 2012 based on homes 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 31st of each fiscal year. In-Lieu Fee amounts shall be made publicly available from the Community Services Department within ten (10) 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 a 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 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 a twelve-month period less 15% 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 prices for inclusionary units 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 x Percent of AMI (for the relevant household income category)

x

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 30 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:
Affordable Mortgage Amount =
Affordable Monthly Mortgage Payment x ((1 +R value)360 payments – 1) ÷ ((R value) x (1+R value) 360 payments) *R value = Annual Mortgage Interest Rate ÷12 months*
Formula 6-2
where:
Affordable Monthly Mortgage Payment =
(30% x (Target Household Income ÷ 12 months)) – (Insurance Payment + Property Tax Payment + HOA Dues)
Formula 6-3

4. *Housing Unit Size Adjustment Factors*

Housing unit size adjustment factors shall be used when calculating maximum sale prices based on number of bedrooms ranging from studio to four (4) bedroom units, as follows:

Table 6.8 – Housing Unit Size Adjustment Factors	
Unit Size (No. of Bedrooms)	For Sale 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 project subject to this chapter shall be processed by the Planning and Development Department with conditions of approval requiring agreements and covenants be recorded with the property title(s) and/or deed(s) specifying the inclusionary housing requirements applied to the project. Standard conditions of approval shall:

1. Specify how the developer complies 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, and/or the construction of onsite residential second units (RSU) for the workforce income category requirement only, and
2. Require the developer(s) to offer affordable housing unit(s) for sale without exceeding the maximum sale prices set by the Community Services Department for the year of sale, and
3. Ensure that any current or future buyers are fully informed of and held accountable to the inclusionary housing requirements and/or sales price-restrictions, and
4. Set household income levels and time limits for the deed restriction, and
5. If deemed appropriate by the County and consistent with Fair Housing Laws, allow that preference be given to the selection of potential occupants of affordable housing units, 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 projects subject to this chapter, the developer shall record with the County the following required agreements and covenants.

1. All affordable housing agreements and covenants required by conditions on subject projects that include a tract map (TM) shall be recorded with the County Clerk-Recorder prior to final map recordation.
2. All affordable housing agreements and covenants required by conditions on subject projects that do not include a tract map (TM) shall be recorded with the County Clerk-Recorder before prior to land use clearance.

All affordable housing agreements and covenants required by conditions on subject projects shall be completed, reviewed by County Counsel, signed by all parties, executed and approved by the Board of Supervisors, and recorded properly with the following documentation.

1. Agreement to Provide Affordable Housing

The *Agreement to Provide Affordable Housing* shall be prepared by the Community Services Department. Recorded agreements shall bind the property owners to maximum sales price requirements for the time period required by law and/or County policy, and shall include:

i. The number of affordable housing units, their size, their affordability level and the income level at which they must be sold; and

ii. Marketing and lottery requirements.

2. Resale Restrictive Covenant and Preemptive Right

The *Resale Restrictive Covenant and Preemptive Right* shall be appended to the *Agreement to Provide Affordable Housing* and recorded at the same time, including, but not limited to, any needed provisions to:

i. Secure the sales price restrictions for 45 years, restarting for up to 90 years upon resale of the affordable housing unit.

ii. Ensure subsequent sales of an individual price-restricted affordable housing unit may only be to income-qualified households and at prices within the target 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 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 Community Services Department.

(f) Monitoring and Maintenance

The 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.

Section 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.

Section 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.

SECTION 2:

Except as amended by this Ordinance, Chapter 46, Affordable Housing Enforcement, of the County Code, shall remain unchanged and shall continue in full force and effect.

SECTION 3:

This ordinance shall take effect and be in force thirty (30) days from the date of its passage and before the expiration of fifteen (15) days after its passage a summary of it shall be published once together with the names of the members of the Board of Supervisors voting for and against the same in the Santa Barbara News-Press, a newspaper of general circulation published in the County of Santa Barbara.

PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this 14th day of May, 2013, by the following vote:

AYES: Supervisor Carbajal, Wolf, Farr, Adam & Lavagnino

NOES: None

ABSTAINED: None

ABSENT: None

SALUD CARBAJAL
Chair, Board of Supervisors
County of Santa Barbara

ATTEST:

CHANDRA L. WALLAR
Clerk of the Board of Supervisors

By _____
Deputy Clerk

APPROVED AS TO FORM:

DENNIS A. MARSHALL
County Counsel

By _____
Deputy County Counsel

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This is a true certified copy of the original document on file or of record in my office. It bears the seal and signature, imprinted in purple ink, of the Clerk of the Board of Supervisors.

Chandra L Wallar

Clerk of the Board, Santa Barbara County, California
Date 7/30/13 by Deputy: L Alexander