

**Attachment F – RESPONSE TO
2024 BOARD DIRECTION**

**County of San Diego, Planning & Development Services
Inclusionary Housing Ordinance – Response to 2024 Direction**

At the adoption hearing for the Inclusionary Housing Ordinance on August 28, 2024 (11), the Board of Supervisors took the following action:

After the DFA and VMT Mitigations Programs Options are presented to the Board (Winter 2024), staff to return with options that include the following considerations:

- a) Ensure overall housing production is not negatively impacted*
- b) Align with state density bonus law*
- c) Include considerations for phasing-in the program to allow time for land values to adjust to the Program*
- d) Continue to Engage with experts and community*
- e) Provide inclusionary housing production estimates for each of these options, including middle income home ownership*
- f) Development incentives that include infrastructure that can be provided in Option 3 to maximize units in the VMT Efficient and Infill areas, concurrent with the Development Feasibility Analysis for these areas.*
- g) Off-site development should be within a radius of 3 miles or the vicinity of the community planning area*

The Development Feasibility Analysis (DFA) and Vehicle Miles Travelled (VMT) Mitigation Program Options have been presented to the Board. Staff are now returning as directed with options for an Inclusionary Housing Ordinance including the following considerations:

- a) Ensure overall housing production is not negatively impacted*

The goal of the Inclusionary Housing Ordinance is to increase affordable housing while supporting market-rate housing production. The presented set-asides are feasible (without density bonus incentives) based on the peer reviewed economic analysis which was independently reviewed again in 2026. The three set-aside tiers reflect increasing levels of affordable housing production, ranging from the lowest impact that will provide the least affordable housing and least impact to development while aligned with State density bonus thresholds (Tier 1) to higher requirements that would produce the greatest number of affordable units (Tier 3).

- b) Align with State density bonus law*

All set-aside options in the three Tiers are aligned with California State (State) density bonus law, allowing projects to access incentives provided under State and County of San Diego (County) density bonus programs. Tiers 1 and 2 align with the minimum affordability thresholds required for State density bonus incentives. Potential additional incentives encourage on-site affordable housing production. These incentives build upon the County's existing Density Bonus Program and include additional density bonus, a regulatory concession and priority review for projects that exceed the minimum affordable housing requirements.

- c) Consider phasing-in the program to allow time for land values to adjust*

During the 45-day public review of the proposed Ordinance, the building industry provided input suggesting a gradual phase-in of the inclusionary housing set-aside requirement. This approach looks to facilitate a smooth transition for transactions and projects currently under

development or in-process. By implementing set-aside requirements gradually, the market and development community are allowed sufficient time to adjust to the new requirements.

An example of this was found in San Luis Obispo County, which starting in 2010 phased in a 20% set-aside requirement over five years, starting at 4% in the first year and increasing by 4% in every following year. Similarly, the City of San Diego phased in a 10% set-aside requirement over five years, starting at 2% in the first year. The scheduled increase in the set-aside requirement provides time for land values, rents, and other program considerations to be absorbed by the market. Furthermore, the predictable schedule may create incentive for developers to expedite development, which could mitigate against short-term market shock that may result from full adoption of an inclusionary housing ordinance.

One concern with the gradual phase-in of set-aside requirements is the additional complexity compared to a single-phase implementation. During the phase-up period, adjustments would need to be made annually to in-lieu fees and other alternative compliance options. This could present administrative challenges for staff and reduce clarity and certainty for applicants. Another aspect to consider is that lower set-aside requirements during the phase-in period will result in fewer affordable units produced. This is because the phased approach allows developers to meet their obligations by providing fractions of affordable housing units, often leading them to choose to pay in-lieu fees instead of delivering affordable housing units. As a result, the phased approach may not fully address the housing needs of the community or the County's RHNA goals.

It is important to note that not meeting RHNA requirements could potentially prompt the need for rezoning certain areas of the County to comply with the State's "No Net Loss Law", which would require identification of additional RHNA sites to compensate for current RHNA sites that develop fewer affordable units than anticipated in the County's Housing Element. Phasing in the set-aside requirement also doesn't automatically qualify inclusionary housing projects for a density bonus, as the lowest percentage of affordable units to qualify for both the State and County programs is 5% Very-Low income unit or 10% Low-income units, both resulting in a 20% bonus. Set-aside requirements may not reach these minimum thresholds for the first few years of a phased implementation of the proposed Ordinance.

To address this concern and ensure the production of affordable housing units, phasing-in the Inclusionary Housing Ordinance could be directed by beginning with the set-aside requirements in Tier 1 and gradually increasing to the levels in Tier 3. Staff does not recommend starting with a phase-in that includes requirements lower than Tier 1, as it would not allow projects to qualify for State density bonus and could reduce the program's effectiveness in producing affordable housing and limit progress towards RHNA goals, particularly for Very Low-income households. Additionally, jurisdictions like the City of San Diego, that have phased in inclusionary requirements have typically done so when modifying existing programs, rather than when adopting a program for the first time.

d) Engage with experts and community members

County staff have engaged with experts and community during the past 6 years and held over 80 meetings with diverse groups. This has included technical experts, community members, building industry, environmental groups, affordable housing developers, community planning and sponsor groups, and community advocacy groups. The County began this project by

ATTACHMENT F

engaging one-on-one with developers in 2020 and continued engaging with the development community via surveys, interviews, stakeholder group meetings, focus group meetings, one on one meetings, and public workshops and hearings. Several specific inputs and feedback have been incorporated into the what is presented to the Board, such as Tiers 1 and 2. Since the last adoption hearing in 2024, over 20 meetings have been held with experts and community members.

Staff presented the Draft Ordinance at CPG and CSG All Chairs meetings in 2023 and 2026 and offered presentations to all CPG and CSGs. In 2023, the Draft Ordinance was presented to the 9 CPGs who requested meetings for additional feedback: Fallbrook, Jamul, Lakeside, Rainbow, San Dieguito, Sweetwater, Twin Oaks, Valle de Oro, and Valley Center. In 2026, the Draft Ordinance was presented to the 4 CPGs who requested meetings for additional feedback: Ramona, Sweetwater, San Dieguito, and Valley Center. Staff also met with CPG members from Fallbrook at a revitalization meeting hosted by District 5 Board Supervisor Desmond.

Throughout the outreach process, several stakeholder group meetings were held, including numerous meetings with the Building Industry Association, Land Development Technical Working Group, San Diego Labor Union Stakeholder Group, San Diego Regional Chamber of Commerce, Farm Bureau, Environmental Coalition, Housing Federation, Wildlife Agencies, and the Quality-of-Life Coalition. These meetings ensured stakeholder groups were able to provide input and feedback to shape the Draft Ordinance and were kept informed of key project milestones, upcoming meetings, and next steps in the adoption process.

In February and March 2022, staff held three focus group meetings with (1) affordable housing developers and advocates, (2) market rate developers and the development industry, and (3) environmental, equity, and labor union groups where staff discussed best practices and received input on Draft Ordinance. A public meeting was held with community members and stakeholders on June 28, 2022, where staff provided an overview of the project's scope and held an interactive forum to collect feedback on the Draft Ordinance. In January 2023, staff held three more focus group meetings with the same 3 focus groups listed above to notice stakeholders before the start of public review and to discuss the materials available for public review.

In February 2026, staff held three more focus group meetings with (1) affordable housing developers, (2) market rate developers, and (3) environmental advocates where staff discussed best practices and received feedback on the Draft Ordinance. A roundtable workshop was held for these stakeholders on February 27, 2026, where staff provided an overview of the project's scope and held an interactive forum to collect feedback on the Draft Ordinance Options. Staff met again with (1) affordable housing developers, (2) market rate developers, and (3) environmental advocates in May and June 2026.

The Draft Ordinance had a 45-day public review period from January 20, 2023, to March 7, 2023. Among other outreach during this time, staff held a Planning Commission (PC) workshop on March 24, 2023, to receive Planning Commission and public input. Following the PC workshop, staff continued to present at CPG meetings through September 2023. The Draft Ordinance went to Planning Commission hearing on April 19, 2024, and staff held another public workshop on the Ordinance Options on June 12, 2024. Staff continued to present at stakeholder meetings and respond to public input from August 2024 through June 2026.

e) Provide affordable housing production estimates for each Option, including middle income home ownership

A set-aside requirement of 5% would result in between 30 and 77 units across the next three years, while a set-aside requirement of 10% would result in 59 to 154 units across the next three years. Similarly, a set-aside of 15% would result in 89 to 230 units and a set-aside of 20% would result in 118 to 307 units in three years. All For-Sale set-asides would require for-sale affordable units that would result in more homeownership opportunities. Phasing-in requirements would decrease the Inclusionary Housing Ordinance's impact on achieving Very Low-Income RHNA and other affordable housing goals.

f) Consider development incentives that include infrastructure that can be provided in Option 3 to maximize units in the VMT Efficient and Infill areas, concurrent with the Development Feasibility Analysis for these areas

The Board can choose additional density bonus incentives, to maximize units within VMT Efficient Areas, Infill areas, and Development Feasibility Analysis (DFA) areas. As recommended in the 2025 Development Feasibility Analysis, the Board may separately establish an Enhanced Infrastructure Financing District (EIFD) or Community Facilities District (CFD). If an EIFD or CFD is established, the Board may authorize developments, subject to the Inclusionary Housing Ordinance, to access these infrastructure-supportive funds at a later date.

g) Require alternative compliance through offsite development to be within a radius of 3 miles from the market-rate development or in the Community Planning Area vicinity.

Per Board direction, off-site development and land donation would be allowed within the unincorporated area and: within a 3-mile radius of, or within the same Community Planning Area as the market-rate development, or within a High and Highest Resource Area, or within a VMT-Efficient area.

Vehicle Miles Travelled (VMT) Background

On September 28, 2022 (6), after the Economic Analysis was complete, the Board adopted the County's Transportation Study Guide (TSG). This guidance document introduced new criteria for evaluating transportation impacts associated with new proposed land development projects in alignment with State law on Vehicle Miles Traveled (VMT). VMT measures the total distance traveled by all vehicles on a given road network over a specific time period. The Board directed staff to explore VMT mitigation program options that would allow projects to offset VMT impacts. During stakeholder engagement, comments were received expressing concerns about adopting an Inclusionary Housing Ordinance before the Board adopts a VMT mitigation program, as the additional costs associated with VMT mitigation could impact project feasibility in areas outside VMT Efficient areas. Although the specific costs of a VMT mitigation program will not be known until it is adopted, the Draft Inclusionary Housing Ordinance Options have been organized based on relative project impact so Board can consider this factor.

Similarly, the Board can establish a lower requirement outside of VMT Efficient and other areas applying a higher requirement with more incentives in VMT Efficient and other areas. However, geographically limiting and selectively applying the inclusionary housing policy may lead to concerns about equity, segregation, and affirmatively furthering fair housing. Almost all jurisdictions with an inclusionary housing policy apply it jurisdiction-wide, with some requiring a higher requirement in certain areas.

ATTACHMENT F

While the Economic Analysis was completed before the Transportation Study Guide, the Board can choose to limit the Ordinance's application to VMT Efficient areas and other areas where there would be no additional VMT mitigation costs. This approach ensures that projects do not have to comply with both the Inclusionary Housing Ordinance and a VMT mitigation program simultaneously. Additionally, the Board can direct an update to the Inclusionary Housing Ordinance economic analysis when a VMT mitigation program is adopted, allowing mitigation costs to be factored in when analyzing project feasibility. Subsequent revisions to the Ordinance's components, for example, to where it applies geographically, minimum project size and set asides for different project types, could then be considered by the Board. Finally, future projects anywhere in the unincorporated area that are consistent with the General Plan should not need to do VMT studies or pay for VMT mitigation costs, based on recent case law. Per the CEQA 15183 exemption process, applicability is reviewed on a project-by-project basis.