

**COUNTY OF SAN MATEO
PLANNING AND BUILDING DEPARTMENT**

DATE: June 10, 2010

To: Planning Commission

From: Steve Monowitz, Community Development Director

Subject: EXECUTIVE SUMMARY: An ordinance repealing Sections 7900 - 7911 of the County Ordinance Code (Zoning Regulations), and adopting a new Chapter 22.6 of the Zoning Regulations to update the density bonus program, as required by State law.

County File Number: PLN 2019-00363

RECOMMENDATION:

Recommend that the County Board of Supervisors adopt an ordinance a repealing Sections 7900 – 7911 of the County Ordinance Code and adopting a new Chapter 22.6 of the Zoning Regulations to update the density bonus program, as required by State law, and waive the reading of the ordinance in its entirety.

BACKGROUND:

San Mateo County's Density Bonus Ordinance implements California Density Bonus Law, Government Code Sections 65915 *et seq.* The purpose of State law and the County's ordinance is to incentivize the provision of affordable housing and housing for other specifically-targeted populations, by allowing greater residential density and other exceptions from development standards in exchange for such housing.

The County's Ordinance was adopted in 1993, and has not been substantially amended since adoption. Since that time, however, State law has been amended several times, most significantly in 2018, and the County's ordinance is no longer consistent. By law, the County's ordinance must be amended for consistency.

The County's prior ordinance also exceeded State law by providing greater incentives in exchange for additional housing units. However, the State's updated regulations are significantly more generous than the County's ordinance, and the proposed updates directly implement State law, without additional discretionary local provisions.

DISCUSSION:

The basic density bonus is an allowance of additional units beyond maximum permitted residential density, in exchange for dedicated housing units. Per State law, the density

bonus is not discretionary on the part of the County: if the required units are provided, the County must allow the additional density, and in general must also allow certain exceptions from development standards.

Density Bonus. The basic density bonus is calculated on a sliding scale, based on the type and amount of units or other dedications provided. Units provided in order to receive the density bonus are known as “qualifying units.” The types of qualifying units and associated bonuses are shown in the table below (with some rows omitted for concision). All units must be in only one of the very low, low, or moderate-income categories; within these categories, additional bonuses are available for units dedicated to foster youth, disabled veterans, the homeless, and low-income college students. There is also a bonus for land donation, for 100% senior projects, and an additional bonus for projects providing childcare space. Greater bonuses are available for 100% affordable housing.

Qualifying Unit %	Very Low Income Bonus	Low Income Bonus	Moderate Income Bonus	Land Donation	Foster Youth/ Disabled Vets/ Homeless Bonus	Low-Income College Student Bonus	Senior Bonus (100% senior projects)
5	20	--	--	--	--	--	20
6	22.5	--	--	--	--	--	20
7	25	--	--	--	--	--	20
8	27.5	--	--	--	--	--	20
9	30	--	--	--	--	--	20
10	32.5	20	5	15	20	--	20
11	35	21.5	6	16	20	--	20
<i>[Rows 11 through 18 omitted]</i>							
19	35	33.5	14	24	20	--	20
20	35	35	15	25	20	35	20
21	35	35	16	26	20	35	20
<i>[Rows 22 through 28 omitted]</i>							
29	35	35	24	34	20	35	20
30	35	35	25	35	20	35	20
<i>[Rows 31 through 37 omitted]</i>							
38	35	35	33	35	20	35	20
39	35	35	34	35	20	35	20
40	35	35	35	35	20	35	20

Incentives and Concessions, Parking Modifications and Waivers. Exceptions beyond the bonus, called incentives and concessions, are broadly defined to include exceptions to: building height; side and rear setbacks; floor area limits; required parking; architectural standards related to bulk or mass, minimum building separations, and others. A specified number of incentives and concessions are available, also on a

sliding scale related to the qualifying units provided. In addition to incentives and concessions, density bonus projects are subject to reduced parking requirements.

Waivers are similar to concessions and incentives, but the procedure and rationale is distinct. For any density bonus project, the applicant may request a waiver of any development standard that would physically preclude construction of the project, including the density bonus, and the County must generally grant the waiver.

Standards for Qualifying Units. In general, qualifying units provided for the density bonus must be of the same basic quality and type as other units in the project, and must be distributed equally throughout the project. The units must be rented or sold to households meeting the criteria of the qualifying unit category, for the term required by law. These requirements are guaranteed by a development agreement and deed restriction, under the authority of the County Housing Department.

Coastal Commission Approval. The density bonus ordinance must be certified by the California Coastal Commission prior to taking effect in the County's Coastal Zone.

Environmental Review. Approval of the ordinance is exempt from environmental review under the general rule in California Environmental Quality Act ("CEQA") Guidelines Section 15061(b)(3) that CEQA only applies to projects that have the potential for causing a significant effect on the environment.

WG:pac – WSGEE0207_WPU-T.DOCX

**COUNTY OF SAN MATEO
PLANNING AND BUILDING DEPARTMENT**

DATE: June 10, 2020

To: Planning Commission

From: Steve Monowitz, Community Development Director

Subject: An ordinance repealing Sections 7900 - 7911 of the San Mateo County Ordinance Code (Zoning Regulations) and adopting a new Chapter 22.6 of the Zoning Regulations to update the density bonus program, as required by State law.

County File Number: PLN 2019-00363

RECOMMENDATION:

Recommend that the County Board of Supervisors adopt an ordinance repealing Sections 7900 – 7911 of the County Ordinance Code, and adopting a new Chapter 22.6 of the Zoning Regulations to update the density bonus program, as required by State law, and waive the reading of the ordinance in its entirety.

BACKGROUND:

Report Prepared By: William Gibson, Project Planner, 650/363-1816 or wgibson@smcgov.org

Applicant: San Mateo County Planning and Building Department

Location: Countywide

Environmental Evaluation: The project is exempt from environmental review under the general rule in California Environmental Quality Act (“CEQA”) Guidelines Section 15061(b)(3) that CEQA only applies to projects that have the potential for causing a significant effect on the environment. The proposed ordinance provides a density bonus for the inclusion of affordable and other dedicated housing units within some residential development projects, pursuant to the County Zoning Regulations. Those projects will be the subject of independent environmental review, if required by CEQA, prior to approval. It can therefore be seen with certainty that there is no possibility that the adoption of the ordinance itself will have a significant effect on the environment. In addition, the ordinance is a local implementation of State laws that the County has no discretion to disregard or disapprove, and those laws are already in

effect and applicable to projects in the unincorporated County regardless of the County's implementing ordinance.

DISCUSSION:

San Mateo County's Density Bonus Ordinance, Sections 7900 - 7911 of the County Ordinance Code, implements California Density Bonus Law, Government Code Sections 65915 *et seq.* The purpose of both State law and the County's implementing ordinance is to incentivize the provision of affordable housing and housing for other specifically-targeted populations, by allowing greater residential density and other exceptions from applicable development standards in exchange for provision of such housing.

The County's Density Bonus Ordinance was first adopted in 1993, and has not been substantially amended since adoption. Since that time, however, State law has been amended a number of times, most significantly in 2018, and the County ordinance must be amended to achieve consistency with the law.

In addition, at the time of adoption the County's ordinance implemented State law, but also offered a variety of supplemental incentives and waivers, in exchange for additional affordable and/or other housing units beyond those required by State law. However, the State's updated regulations now offer significantly more generous incentives than the maximum previously attainable under the County's ordinance.

The proposed ordinance would implement current California Government Code Section 65915 *et seq.*, without additional incentives, waivers, or other discretionary local provisions. The proposed updates bring the County's ordinance into compliance with State law, as specifically required by State law, and are also intended to increase clarity and ease of implementation of the County's density bonus regulations.

A. **PROPOSED ORDINANCE:**

State Density Bonus Law, and the County's implementing ordinance, provide proposed development projects with relief from various land use regulations, in exchange for provision of affordable housing units, and/or units dedicated to other specifically-targeted populations. The basic incentive, the density bonus, is an allowance of additional units beyond the maximum residential density permitted by General Plan land use and/or zoning regulations; relief from a specified number of other development standards, such as maximum heights, minimum parking ratios, and other standards is also provided.

Per State law, the density bonus is not discretionary on the part of the County. If the required number and type of affordable or other qualifying housing units are provided as part of a project, the County must allow the additional density, and in general must also automatically allow a certain number of exceptions from various other development standards, unless the County can conclusively demonstrate that a particular exception is harmful, or that it does not offer significant benefit to the project.

The basic provisions of the updated ordinance, implementing State law and establishing procedures to ensure that units built pursuant to the ordinance remain dedicated to their intended purpose, are addressed below.

1. Density Bonus Requirements and Bonus Amounts

The basic allowance of additional units beyond otherwise-allowed residential density is calculated on a sliding scale, based on the type and amount of units or other dedications provided in the relevant categories. Units provided in order to receive the density bonus and other incentives are known as “qualifying units.”

Qualifying units fall in a number of categories, as shown in the table below. The basic categories are very low income, low-income, and moderate-income affordable housing; only one of these categories can be used to receive a density bonus, and, with the exception of bonuses available for 100 percent senior projects, all units provided must fall within a single selected affordability category. Within these basic affordable categories, additional density bonuses are available if the affordable units are also dedicated to foster youth, disabled veterans, homeless residents, or low-income college students.

In addition to the affordability categories, State law and the proposed ordinance provide bonuses for a donation of land, and bonus for 100 percent senior housing projects, regardless of affordability restrictions. There is also a bonus for the provision of childcare space as part of a residential project. The childcare bonus can be combined with other bonuses if affordable units are also provided as part of the project.

As the table indicates, the number of additional units allowed increase in proportion to the percentage of qualifying units provided, typically up to a maximum of 35 percent, although there are various scenarios, including provision of childcare space, and 100 percent affordable projects, that can result in bonus amounts greater than 35%.

Qualifying Unit Percentage	Very Low Income Density Bonus	Low Income Density Bonus	Moderate Income Density Bonus	Land Donation Bonus	Foster Youth/Disabled Vets/Homeless Bonus ¹	Low-Income College Student Bonus ¹	Senior Bonus (for 100% senior projects) ²
5	20						20
6	22.5						20
7	25						20
8	27.5						20
9	30						20
10	32.5	20	5	15	20		20
11	35	21.5	6	16	20		20
12	35	23	7	17	20		20
13	35	24.5	8	18	20		20
14	35	26	9	19	20		20
15	35	27.5	10	20	20		20
16	35	29	11	21	20		20
17	35	30.5	12	22	20		20
18	35	32	13	23	20		20
19	35	33.5	14	24	20		20
20	35	35	15	25	20	35	20
21	35	35	16	26	20	35	20
22	35	35	17	27	20	35	20
23	35	35	18	28	20	35	20
24	35	35	19	29	20	35	20
25	35	35	20	30	20	35	20
26	35	35	21	31	20	35	20
27	35	35	22	32	20	35	20
28	35	35	23	33	20	35	20
29	35	35	24	34	20	35	20
30	35	35	25	35	20	35	20
31	35	35	26	35	20	35	20
32	35	35	27	35	20	35	20
33	35	35	28	35	20	35	20
34	35	35	29	35	20	35	20
35	35	35	30	35	20	35	20
36	35	35	31	35	20	35	20
37	35	35	32	35	20	35	20
38	35	35	33	35	20	35	20
39	35	35	34	35	20	35	20
40	35	35	35	35	20	35	20

1. For the Foster Youth, Disabled Veterans, Homeless, and Low-Income College Student Categories, the density bonus is a percentage of the qualifying units in those categories, rather than the total units in the proposed project.
2. Senior projects need not provide any restricted affordable housing, but must be 100% senior projects or senior mobile home projects

2. Childcare Bonus

In exchange for the provision of childcare space, projects are eligible for an additional bonus that may be combined with the qualifying unit bonus. In general, the project may receive an additional density bonus of residential square footage equal to the square footage of childcare space provided.

3. Bonus for 100 Percent Affordable Projects

Projects that are 100 percent affordable are allowed an 80 percent density bonus, as well as an additional height allowance, and an additional parking reduction. Projects that are 100 percent affordable and within one quarter mile of various types of frequent transit service are excepted from density limits entirely, and may build as many units as feasible on the project site.

4. Incentives and Concessions

Exceptions beyond the basic density bonus, called incentives and concessions, are broadly but not exclusively defined to include exceptions to: building height; side and rear setbacks; floor area limits; required parking; architectural standards related to bulk or mass, minimum building separations, and other exceptions. These exceptions are also proportionally related to the qualifying units provided, as follows:

- a. One incentive or concession is allowed for projects with at least 5 percent of the total units for very low-income households, 10 percent for lower income households, or 10 percent for moderate income households.
- b. Two incentives or concessions are allowed for projects with at least 10 percent of the total units for very low-income households, 20 percent for lower income households, or 20 percent for moderate income households.
- c. Three incentives or concessions are allowed for projects with at least 15 percent of the total units for very low-income households, 30 percent for lower income households, or 30 percent for moderate income households.
- d. Four incentives or concessions are allowed for 100 percent affordable projects.
- e. One additional incentive or concession is allowed for projects providing childcare.

5. Parking Modifications

In addition to incentives and concessions, projects qualifying for a density bonus are subject to reduced parking requirements, of no more than: one onsite parking space for studio and one-bedroom units; two on-site parking spaces for two and three-bedroom units; and 2.5 on-site parking spaces for units with four or more bedrooms. Projects in proximity to transit, projects that are 100 percent affordable, senior rental projects, and certain special needs housing developments are also eligible for further parking reductions.

All required parking pursuant to these requirements may be tandem, and uncovered.

6. Waivers

Waivers are not necessarily different in kind from concessions and incentives, but the procedure and rationale for requesting and granting waivers are distinct. For any project receiving a density bonus, the project applicant may request a waiver of any development standard that would physically preclude the construction of the project, taking into account the density bonus and incentives to which the project is entitled, and the County must grant the waiver unless it can demonstrate that the waiver would have a specific adverse impact on the physical environment or on a historic resource, or prove that the waiver is unnecessary to build the project.

7. Standards for Qualifying Units

In general, the updated ordinance, like the prior ordinance, requires that qualifying units provided in order to receive a density bonus be of the same basic quality and type as the other units provided in the project, and that the units be distributed evenly throughout the project, rather than clustered in any specific area.

8. Continued Affordability and Monitoring

The units provided to obtain the density bonus must be rented or sold to households meeting the criteria of the qualifying unit category, for the full term required by State law. These requirements must be guaranteed by a development agreement and recorded deed restriction, and affordability, tenant or buyer selection, ongoing monitoring, and other provisions will be under the authority of the County Housing Department.

9. Relationship of the Density Bonus to the County's Inclusionary Housing Ordinance

The County has an existing Inclusionary Housing Ordinance, which requires that any project of five or more units provide at least 20 percent of units as dedicated affordable housing. If the units required by the Inclusionary Housing Ordinance are provided in the types and amounts required for a density bonus, the project is eligible for the density bonus, despite the fact that the units are also required by the Inclusionary Housing Ordinance. Units that meet the definition of qualifying units count toward the density bonus, even if they are also required by other regulations.

B. COASTAL COMMISSION APPROVAL

Any ordinance that will be applicable in the County's Coastal Zone must be submitted to the California Coastal Commission for review and certification. If

adopted by the Board of Supervisors, the proposed ordinance will take effect in the Bayside areas of the County thirty days after adoption, but will not be effective in the County's Coastal Zone until the Coastal Commission has certified the ordinance.

C. ALTERNATIVES

The alternatives to a Planning Commission recommendation that the Board of Supervisors adopt the proposed ordinance are a recommendation against adoption, or a recommendation that the Board adopt a modified ordinance.

D. ENVIRONMENTAL REVIEW

Approval of this ordinance is exempt from environmental review under the general rule in California Environmental Quality Act ("CEQA") Guidelines Section 15061(b)(3) that CEQA only applies to projects that have the potential for causing a significant effect on the environment. This ordinance provides a density bonus for the inclusion of affordable and other dedicated housing units within some residential development projects, pursuant to the County Zoning Regulations. Those projects will be the subject of independent environmental review, if required by CEQA. It can therefore be seen with certainty that there is no possibility that the adoption of the ordinance itself will have a significant effect on the environment. In addition, the ordinance is a local implementation of State laws that the County has no discretion to disregard or disapprove, and those laws are already in effect and applicable to projects in the unincorporated County regardless of the County's implementing ordinance.

The ordinance has been reviewed and approved by County Counsel as to form.

ATTACHMENTS:

- A. Recommendation
- B. Updated Density Bonus Ordinance
- C. Prior Density Bonus Ordinance

WG:pac: WSGEE0208_WPU-T (rev 2).DOCX



COUNTY OF SAN MATEO - PLANNING AND BUILDING DEPARTMENT

ATTACHMENT A

County of San Mateo
Planning and Building Department

RECOMMENDED ACTION

Permit or Project File Number: PLN 2019-00363

Hearing Date: June 10, 2020

Prepared By: Will Gibson, Project Planner

For Adoption By: Planning Commission

RECOMMENDED ACTION

Recommend that the County Board of Supervisors adopt an ordinance repealing Sections 7900 – 7911 of the County Ordinance Code, and adopting a new Chapter 22.6 of the Zoning Regulations to update the density bonus program, as required by State law, and waive the reading of the ordinance in its entirety.

WG:pac: WSGEE0208_WPU-T (rev 2).DOCX



COUNTY OF SAN MATEO - PLANNING AND BUILDING DEPARTMENT

ATTACHMENT B

ORDINANCE NO. _____
BOARD OF SUPERVISORS, COUNTY OF SAN MATEO,
STATE OF CALIFORNIA

* * * * *

**AN ORDINANCE REPEALING SECTIONS 7900 – 7911 OF THE COUNTY
ORDINANCE CODE (ZONING REGULATIONS) AND ADOPTING A NEW CHAPTER
22.6 OF THE ZONING REGULATIONS TO UPDATE THE DENSITY BONUS
PROGRAM, AS REQUIRED BY STATE LAW**

The Board of Supervisors of the County of San Mateo, State of California,

ORDAINS as follows

SECTION 1. Findings. The Board of Supervisors of the County of San Mateo (“County”) hereby finds and declares as follows:

WHEREAS, the County of San Mateo in 1993 adopted an ordinance implementing California’s State Density Bonus Law, Government Code Sections 65915 *et seq*; and

WHEREAS, that implementing ordinance is known as the County Density Bonus Ordinance, numbered as Sections 7900 – 7911 of the County Ordinance Code; and

WHEREAS, the County’s Density Bonus Ordinance has not been substantially amended since adoption; and

WHEREAS, since that time, the legislature of the State of California has enacted additional legislation substantially amending State Density Bonus Law; and

WHEREAS, State law requires the County to implement State Density Bonus Law, and to amend the County's Density Bonus Ordinance to be consistent with State law; and

WHEREAS, amendments to the County Density Bonus Ordinance can also achieve greater clarity and ease of interpretation and implementation of the regulations; and

WHEREAS, the purpose of both State Density Bonus Law and the County's Density Bonus Ordinance are to incentivize the production of needed affordable housing and housing targeted to other specific populations in need of dedicated housing, in exchange for relief from certain development standards; and

WHEREAS, the County's Density Bonus Ordinance is not currently published in the codified County Zoning Regulations; and

WHEREAS, publishing the County Density Bonus Ordinance as a chapter of the Zoning Regulations would improve ease of access and use of the ordinance by the public; and

WHEREAS, the proposed ordinance is consistent with the County's Local Coastal Program; and

WHEREAS, the proposed ordinance constitutes an amendment to the Implementation Plan of the Local Coastal Program; and

WHEREAS, on adoption by the Board of Supervisors, the ordinance will be submitted to the California Coastal Commission for review and certification; and

WHEREAS, the ordinance will ensure that the County's regulations are consistent with State law, are easier to interpret and implement, and are readily accessible to the public, will facilitate and promote the creation of affordable and other housing, and will help fulfill the County's housing goals.

NOW, THEREFORE, the Board of Supervisors of the County of San Mateo, State of California, ordains as follows:

* * * * *

SECTION 2. Sections 7900-7911 of The San Mateo County Ordinance Code are hereby repealed and replaced in their entirety by a new Chapter 22.6 of the Zoning Regulations, as follows:

CHAPTER 22.6. DENSITY BONUS

SECTIONS:

- 6440.1. PURPOSE
- 6440.2. DEFINITIONS
- 6440.3. STATE DENSITY BONUS LAW
- 6440.4. MINISTERIAL APPROVAL
- 6440.5. DENSITY BONUS REQUIREMENTS AND BONUS AMOUNTS
- 6440.6. RELATIONSHIP TO INCLUSIONARY HOUSING REQUIREMENT

- 6440.7. INCENTIVES AND CONCESSIONS
- 6440.8. PARKING MODIFICATIONS
- 6440.9. WAIVERS
- 6440.10. STANDARDS FOR QUALIFYING UNITS
- 6440.11. PROCEDURE FOR GRANTING OF DENSITY BONUS

SECTION 6440.1. PURPOSE. The purpose of this Chapter is to:

1. Increase the supply of housing units in the unincorporated area for very low, low, and moderate income households, senior citizens, transitional foster youth, disabled veterans, homeless persons, and lower income college students by offering a density bonus and other incentives, concessions, and waivers to developers of new residential developments that include housing units for such households;
2. Implement State Density Bonus Law (California Government Code Sections 65915 et seq.); and
3. Implement the policies of the San Mateo County General Plan Housing Element.

SECTION 6440.2. DEFINITIONS.

1. Affordable Housing Unit. An ownership or rental dwelling unit affordable to households with very low, low, or moderate incomes, as those terms are defined in State Density Bonus Law.
2. Childcare Facility. A childcare facility as defined in State Density Bonus Law.
3. Concession or Incentive. A modification in development standards, zoning code requirements, architectural design requirements, parking requirements, or other concessions or incentives identified in State Density Bonus Law, or any successor provision, that results in identifiable and actual cost reductions, in order to provide for affordable housing.
4. Density Bonus Unit. A dwelling unit within a residential development that has been granted to a developer in excess of the number of units otherwise allowed in exchange for having met the requirements of State Density Bonus Law and this Chapter.
5. Disabled Veteran Housing. Housing dedicated to disabled veterans, as defined in Section 18541 of the California Government Code.
6. Homeless Housing. Housing dedicated to homeless persons, as defined in the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. Section 11301 et seq.).

7. Land Donation. A direct donation of land by a project developer to the County as part of a development project pursuant to the provisions of State Density Bonus Law.
8. Low Income Household. A low income household as defined in State Density Bonus Law.
9. Low Income College Student Housing. Housing dedicated for qualifying college students, as defined in State Density Bonus Law.
10. Maximum Net Density. The maximum number of dwelling units allowed on a parcel per net acre, under the Zoning Regulations and land use element of the General Plan, prior to the application of the State Density Bonus Law. If a range of densities is permitted, the maximum allowable density in the range is applicable. Where the density allowed under the Zoning Regulations is inconsistent with the density allowed under the land use element of the General Plan, the General Plan density shall prevail.
11. Moderate Income Household. A moderate income household as defined in State Density Bonus Law.
12. Qualifying Unit. A dwelling unit included in a residential development which enables the developer to qualify for a density bonus and concessions and incentives required by this Chapter. Qualifying units include units dedicated for occupancy by: (1) very low, low, or moderate income households; (2) senior households; or (3) disabled veteran households, transitional foster youth households, formerly homeless households, or low income college student households.
13. Residential Development. A project that contains five or more parcels or dwelling units as allowed by the Zoning Regulations, excluding any density bonus or second units. A residential development may include one or more housing types designed for permanent occupancy including, but not limited to, single family dwellings and/or multiple-family dwellings (both ownership and rental). A residential development includes projects with both residential and non-residential components, provided that the residential components meet the definitions in this Section.
14. Senior Citizen Housing Development. A senior citizen housing development as defined in Sections 51.3 and 51.12 of the California Civil Code.
15. State Density Bonus Law. California Government Code Section 65915 et seq., including any amendments thereto.
16. Transitional Foster Youth Housing. Housing for transitional foster youth, as defined in State Density Bonus Law.

17. Very Low Income Household. A very low income household as defined in State Density Bonus Law.
18. Waiver. A modification of development standards that would otherwise physically preclude the construction of a development meeting the criteria of this Chapter at the density otherwise permitted by State Density Bonus Law and the other provisions of this Chapter, including the concessions and incentives granted under this Chapter pursuant to State Density Bonus Law.

SECTION 6440.3. STATE DENSITY BONUS LAW. Regardless of the provisions of this Chapter, in order to receive a density bonus and any other concessions, incentives, modifications or waivers, a project must comply with all applicable provisions of State Density Bonus Law. In the event that any provisions of this Chapter conflict with State Density Bonus Law, the State Density Bonus Law shall prevail.

SECTION 6440.4. MINISTERIAL APPROVAL. Pursuant to State Density Bonus Law, the granting of any density bonus consistent with the provisions of this Chapter shall not require, in and of itself, any amendments to regulations or other discretionary approval.

SECTION 6440.5. DENSITY BONUS AND BONUS AMOUNTS. In exchange for the provision of qualifying units or provision of other public benefits as defined in this Chapter, and as required by and defined in State Density Bonus Law, a proposed project may exceed the maximum density otherwise allowed for the project (such excess being the “density bonus”), and may receive various other concessions, incentives or waivers in addition to the density bonus, as described in Sections 6440.7, 6440.8 and 6440.9.

Eligibility for Density Bonus. To be eligible for a density bonus and other concessions, incentives, and waivers pursuant to this Chapter, a project must provide the required amount of qualifying housing units, as described in Section 6440.5. The project must also: (1) meet the definition of “residential development” contained in Section 6440.2.13; (2) meet all requirements and standards of the Zoning Regulations, prior to the calculation of any additional density pursuant to the density bonus, and prior to any granted concessions, incentives, or waivers; and (3) be located within unincorporated San Mateo County, with the exception of the rural area of the Coastal Zone, as defined in the County's Local Coastal Program. Projects located within the rural area of the Coastal Zone are not eligible for a density bonus pursuant to this Chapter. A separate density bonus program, as described in Local Coastal Program Policy 3.24, applies in the rural areas of the Coastal Zone.

1. Calculation of Density Bonus. The density bonus shall be calculated based on the maximum net density allowed by the applicable zoning or the general plan land use designation, as described in Section 6440.2.10, and the number of qualifying units proposed.

- a. Units Not Counted. When calculating the maximum density of residential development allowed, the number of qualifying units required, and the number of density bonus units to be granted, neither accessory dwelling units nor density bonus units shall be counted.
 - b. Fractional Attainable Density. For the purposes of this Chapter, when calculating the maximum attainable density of residential development allowed by zoning, any resulting fraction of a unit shall be disregarded, unless the Zoning Regulations clearly state otherwise.
 - c. Fractional Qualifying and Bonus Units. For the purposes of this Chapter, when calculating (1) the number of qualifying units required to receive a density bonus and (2) the number of density bonus units to be granted, any resulting fraction shall be rounded up to the nearest whole number.
2. Qualification for Density Bonus. The minimum amount and type of qualifying units that must be provided to qualify for a density bonus is described below:
- a. Very Low Income. If at least 5 percent of the housing units in a project are restricted to very low income households, a 20 percent density bonus shall be granted, with an additional 2.5 percent density bonus granted for each additional 1 percent of housing units restricted to very low income households, up to a maximum density bonus of 35 percent.
 - b. Low Income. If at least 10 percent of the housing units are restricted to low income households, a 20 percent density bonus shall be granted, with an additional 1.5 percent density bonus granted for each additional one percent of housing units restricted to low income households, up to a maximum density bonus of 35 percent.
 - c. Moderate Income. If at least 10 percent of the housing units in a for-sale common interest development are restricted to moderate income residents, a 5 percent density bonus shall be granted, with an additional 1 percent density bonus granted for each additional one percent of housing restricted to moderate income households, up to a maximum bonus of 35 percent. The moderate income category bonus applies only to for-sale common interest development projects, and is not available for rental housing.
 - d. Transitional Foster Youth, Disabled Veterans, or Homeless. If at least 10 percent of the housing units in a project are dedicated for transitional foster youth, disabled veterans, or homeless persons, with rents of all such units restricted to the very low income level, the density bonus shall be 20 percent of the number of the type of units giving rise to the bonus.

- e. Low Income College Student. If at least 20 percent of the housing units are dedicated for low income college students, the density bonus shall be 35 percent of the college housing units.
- f. Senior Housing and Senior Mobile Home Park. If the project is 100 percent dedicated to senior citizen housing with units available to senior households of any income level, including a mobile-home park restricted entirely for the use of senior citizens at any income level, a 20 percent density bonus shall be granted.
- g. Childcare. A residential development that meets all provisions of this Chapter and includes a childcare facility that will be located on the premises of, as part of, or adjacent to, the project shall be eligible for either:
 - (1) An additional density bonus that is an amount of square feet of residential space that is equal to or greater than the amount of square feet in the childcare facility, or
 - (2) An additional concession or incentive that contributes significantly to the economic feasibility of the construction of the childcare facility.

The provision, maintenance, operation, and attendance of the childcare facility shall be in accordance with all the provisions of State Density Bonus Law, Section 69515(h).
- h. 100 Percent Affordable. If 100 percent of the units in a project are reserved for very low, low, and moderate income households, with a maximum of 20 percent reserved for moderate income, an 80 percent density bonus shall be granted.
- i. Land Donation. When an applicant for a tentative subdivision map, parcel map, or other residential development approval donates land to the County, the applicant shall be entitled to a 15 percent increase above the otherwise maximum allowable residential density for the entire development, in addition to the otherwise allowed density bonus, up to a maximum combined density bonus of no more than 35 percent. The donated land must be in accordance with all provisions of State Density Bonus Law, Section 69515(g).

The available density bonuses in the categories described in Section 6440.5.2 are summarized in the table below:

Qualifying Unit Percentage	Very Low Income Density Bonus	Low Income Density Bonus	Moderate Income Density Bonus	Land Donation Bonus	Foster Youth/Disabled Vets/Homeless Bonus ¹	Low-Income College Student Bonus ¹	Senior Bonus (for 100% senior projects) ²
5	20						20
6	22.5						20
7	25						20
8	27.5						20
9	30						20
10	32.5	20	5	15	20		20
11	35	21.5	6	16	20		20
12	35	23	7	17	20		20
13	35	24.5	8	18	20		20
14	35	26	9	19	20		20
15	35	27.5	10	20	20		20
16	35	29	11	21	20		20
17	35	30.5	12	22	20		20
18	35	32	13	23	20		20
19	35	33.5	14	24	20		20
20	35	35	15	25	20	35	20
21	35	35	16	26	20	35	20
22	35	35	17	27	20	35	20
23	35	35	18	28	20	35	20
24	35	35	19	29	20	35	20
25	35	35	20	30	20	35	20
26	35	35	21	31	20	35	20
27	35	35	22	32	20	35	20
28	35	35	23	33	20	35	20
29	35	35	24	34	20	35	20
30	35	35	25	35	20	35	20
31	35	35	26	35	20	35	20
32	35	35	27	35	20	35	20
33	35	35	28	35	20	35	20
34	35	35	29	35	20	35	20
35	35	35	30	35	20	35	20
36	35	35	31	35	20	35	20
37	35	35	32	35	20	35	20
38	35	35	33	35	20	35	20
39	35	35	34	35	20	35	20
40	35	35	35	35	20	35	20

1. For the Foster Youth, Disabled Veterans, Homeless, and Low Income College Student Categories, the density bonus is a percentage of the qualifying units in those categories, rather than the total units in the proposed project.
2. Senior projects need not provide any restricted affordable housing, but must be 100% senior projects or senior mobile home projects.
3. **No Combining of Categories.** Except in the case of land donations, as described in Section 6440.5.2.i, and in the case of provision of childcare, as described in Section 6440.5.2.g, the bonus requested and granted pursuant to this Section can be based on only one of the qualifying categories. Categories cannot be combined.

SECTION 6440.6. RELATIONSHIP BETWEEN THE DENSITY BONUS AND THE COUNTY'S INCLUSIONARY HOUSING REQUIREMENT. Any units required to be provided as affordable pursuant to the County's Inclusionary Housing Ordinance (Zoning Regulations Section 7908, et. seq.) shall count toward the qualifying units required to receive a density bonus as described in this Chapter, so long as the units meet all required provisions of this Chapter. Regardless of any provisions of this Chapter, however, projects must always meet the applicable requirements of the County's Inclusionary Housing Ordinance.

SECTION 6440.7. INCENTIVES AND CONCESSIONS. In addition to the density bonus, a qualifying project applicant may request various concessions and incentives that provide relief from development standards otherwise required.

1. The applicant shall receive the following number of incentives and concessions:
 - a. One incentive or concession for projects with at least 5 percent of the total units for very low income households, 10 percent for low income households, or 10 percent for moderate income households.
 - b. Two incentives or concessions for projects with at least 10 percent of the total units for very low income households, 20 percent for low income households, or 20 percent for moderate income households.
 - c. Three incentives or concessions for projects with at least 15 percent of the total units for very low income households, 30 percent for low income households, or 30 percent for moderate income households.
 - d. Four incentives or concessions for projects meeting the criteria of Section 6440.5.2.h (100 percent affordable projects).
 - e. One additional incentive or concession for projects meeting the criteria of Section 6440.5.2.g (projects providing childcare).
2. **Request for Incentives and Concessions.** A request for incentives and concessions must be submitted in writing as part of the project application, as described in Section 6440.11. Granted concessions, incentives, or parking modifications shall be identified by the County as described in that Section, and in project conditions and approvals. Concessions and incentives shall be granted in the amounts described in Section 6440.6.1 unless the County makes the following findings, supported by substantial evidence:
 - a. The concession or incentive does not result in identifiable and actual cost reductions to provide for affordable housing costs or affordable rents.
 - b. The concession or incentive would have a specific adverse impact, as defined in Government Code Section 65589.5(d)(2), upon public health and

safety, or the physical environment, with no feasible method to satisfactorily avoid or mitigate without rendering the project unaffordable to low income and moderate income households.

- c. The concession or incentive would have a specific adverse impact on real property that is listed in the California Register of Historical Resources, with no feasible method to satisfactorily avoid or mitigate without rendering the project unaffordable to low income and moderate income households.
- d. The concession or incentive would be contrary to State or federal law.

3. Concessions and Incentives. Concessions and incentives, as defined in Section 6440.2.3, include the following:

- a. Building height or building stories.
- b. Side and rear yard setbacks.
- c. Lot coverage.
- d. Floor area.
- e. Parking.
- f. Architectural design standards related to bulk and mass.
- g. Minimum separation between buildings.
- h. Parking modifications in addition to or distinct from those provided by State Density Bonus Law as described in Section 6440.8.
- i. Approval of mixed-use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if the commercial, office, industrial, or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located.
- j. Other regulatory incentives or concessions proposed by the developer or the city, county, or city and county that result in identifiable and actual cost reductions to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in Government Code Section 65915(c).

SECTION 6440.8. PARKING MODIFICATIONS. The State Density Bonus Law provides alternative parking requirements that may be lower than those otherwise allowed by County regulations. Parking reductions specified in State Density Bonus Law

and described in this Section are not considered concessions, incentives, or waivers. However, the applicant may request additional concessions, incentives, or waivers related to parking, as described in Sections 6440.7 and 6440.9.

1. Parking required, inclusive of handicapped and guest parking, may be no more than:
 - a. 1 on-site parking space for studio and one bedroom units
 - b. 2 on-site parking spaces for two and three bedroom units
 - c. 2.5 on-site parking spaces for units with four or more bedrooms
2. Lower parking ratios apply to the following specified projects:
 - a. 0.5 spaces per bedroom for rental or for sale projects with at least 11 percent very low income or 20 percent low income units, located within one-half mile of an accessible major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code.
 - b. 0.5 spaces per unit for rental projects which are 100 percent affordable to low income households, located within one-half mile of an accessible major transit stop.
 - c. 0.5 spaces per unit for rental senior projects which are 100 percent affordable to low income households, and have paratransit service or are located within one-half mile of an accessible fixed bus route service operating at least eight times per day.
 - d. For rental special needs projects, as defined in Section 51312 of the Health and Safety Code, or a supportive housing development, as defined in Section 50675.14 of the Health and Safety Code, which are 100 percent affordable to low income households and have paratransit service or are located within one-half mile of an accessible fixed bus route service operating at least eight times per day, no parking requirement shall be imposed.
3. In the calculation of required parking spaces, any resulting fraction shall be rounded up to the nearest whole number.
4. All parking required pursuant this Section may be provided as uncovered parking or tandem parking.

SECTION 6440.9. WAIVERS. Developers of projects eligible for a density bonus may request a waiver of any development standard that would physically preclude the

construction of a housing development with the density bonus and incentives to which the project is entitled.

1. Demonstration of Impact. The applicant shall bear the burden of demonstrating that the development standards that are requested to be waived will have the effect of physically precluding the construction of the housing development with the density bonus and incentives.
2. No Limit on Waivers. There is no limit to the number of waivers that may be granted.
3. Request for Waivers. A request for a waiver must be submitted in writing as part of the application process specified in Section 6440.11.
4. Granting or Denial of Waivers. The County shall grant a waiver unless the decision maker makes any of the following findings in writing and supported by substantial evidence:
 - a. The waiver would have a specific adverse impact, as defined in Government Code Section 65589.5(d)(2), upon health, safety, or the physical environment, and there is no feasible method to satisfactorily mitigate or avoid the impact.
 - b. The waiver would have an adverse impact on real property that is listed in the California Register of Historical Resources with no feasible method to satisfactorily mitigate or avoid the impact.
 - c. The development standard for which a waiver is requested would not physically preclude the construction of the housing development with the density bonus and incentives.
 - d. The waiver would be contrary to State or federal law.
5. The granting of any waivers pursuant to this Section shall not reduce the number of concessions, incentives, or parking modifications for which a project may otherwise be eligible pursuant to Sections 6440.7 and 6440.8.
6. If the housing development receives a waiver of maximum density based on its location within one-half mile of a major transit stop, as described in State Density Bonus Law, it shall not be eligible for waivers.

SECTION 6440.10. STANDARDS FOR QUALIFYING UNITS. Qualifying units for the density bonus shall meet the following standards.

1. Standards for Design and Construction of Qualifying Units
 - a. Qualifying units must be constructed concurrently with the other units in a residential development. Where phasing of construction is necessary, each phase shall provide the required ratio of qualifying units to market-rate units to ensure that the qualifying units are made available for sale or rent at the same time as other units in the development.
 - b. Qualifying units shall be integrated into the overall design and distributed throughout the development. The units shall generally be of the same size and quality and shall have similar amenities as the market-rate units, and their exterior materials and appointments shall be architecturally compatible with the market-rate units in the development.
 - c. The mix of unit sizes and bedroom counts in the qualifying units shall be directly proportional to the mix of unit sizes and bedroom counts provided in the development as a whole (i.e., if 20 percent of the units are of one size and style, 20 percent of the qualifying units shall be of that size and style).
2. Occupancy Standards for Qualifying Units. Qualifying units are to be sold or rented only to households certified by the County Housing Department as qualifying for the appropriate category of household as defined in this Chapter, pursuant to the provisions of State Density Bonus Law. Qualification and certification of tenants or buyers shall be at the sole discretion of the Housing Department, unless otherwise determined by the Community Development Director.
3. Specific Standards for Ownership Qualifying Units
 - a. Sale Prices for Qualifying Ownership Units. Ownership qualifying units shall be offered at prices that are considered affordable to very low, low or moderate income households, as determined by the County Housing Department, pursuant to affordability provisions described in State Density Bonus Law.
 - b. Buyer Certification and Selection. Qualifying units are to be sold to households certified by the County Housing Department. Buyers eligible to purchase qualifying units will be selected by the developer in accordance with a marketing program approved by the County Housing Department. The marketing program shall set forth an equitable selection process to be used to market the affordable units established in conformance with this Chapter. Selection criteria may include, but not be limited to, household income and assets, household size, and the size of available units, pursuant to the provisions of State Density Bonus Law.

c. Guarantee of Continued Availability; Resale Controls.

- (1) Qualifying for-sale units are required to be sold only to persons and/or families of very low, low, or moderate income, as required by the qualifying provisions of State Density Bonus Law, and the units must be offered at an affordable housing cost, as that cost is defined in Health and Safety Code Section 50052.5. The County Housing Department shall determine and certify the qualifications of the initial purchaser, and the allowable price of the qualifying units.
- (2) The County shall require an equity sharing agreement for all for-sale units, unless such an agreement is in conflict with the requirements of another public funding source or law. The following apply to the equity sharing agreement:
 - (a) Upon resale, the seller of the unit shall retain the value of any improvements, the downpayment, and the seller's proportionate share of appreciation. The County shall recapture any initial subsidy, as defined in subparagraph (2), and its proportionate share of appreciation, as defined in subparagraph (3), which amount shall be used within 5 years for any of the purposes described in Health and Safety Code Section 33334.2(e) that promote home ownership.
 - (b) For purposes of this subdivision, the County's initial subsidy shall be equal to the air market value of the home at the time of initial sale minus the initial sale price to the moderate-income household, plus the amount of any downpayment assistance or mortgage assistance. If upon resale the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value.
 - (c) For purposes of this subdivision, the County's proportionate share of appreciation shall be equal to the ratio of the County's initial subsidy to the fair market value of the home at the time of initial sale.
- (3) The owners of any qualifying unit shall incorporate as a part of the grant deed conveying title of any such unit, the declaration of restrictions, stating the restrictions imposed by this Chapter including, but not limited to, all applicable resale controls and occupancy restrictions. The terms of the restrictions shall specifically assign to the County all of the sellers' rights to enforce the declaration of restrictions in the manner provided by law. The County or its designee shall monitor resales of qualifying units, for purposes of preventing any abuse or violation of sale or resale controls.

4. Specific Standards for Qualifying Rental Units

- a. Rents for Qualifying Rental Units. Qualifying rental units required to be offered at below-market rents shall be offered at rent levels affordable to very low, low or moderate income households, as determined by the County Housing Department, consistent with the provisions of State Density Bonus Law.
- b. Tenant Certification and Selection. Rental qualifying units are to be rented to households certified by the County Housing Department. Owners of rental qualifying units must provide adequate records to the authorized staff of the Housing Department to demonstrate, to the satisfaction of the County, that all tenants occupying the designated affordable rental units are eligible under the terms of this Chapter and the specific agreement implementing the affordability and occupancy requirements executed by the County and the developer at the time of construction of the units, as described in Section 6440.11. The agreement will provide for a fair and equitable tenant selection process to ensure the selection of eligible tenants. Selection criteria may include, but not be limited to, amount of household income and assets, household size, and the size of available units. Selection methodology must be approved by the County Housing Department.
- c. Guarantee of Continued Availability; Rent Controls. Prior to final approval of a rental development project, the developer shall enter into an agreement with the County, which shall be recorded, specifying the manner of compliance with this Chapter. The agreement shall be binding for no less than fifty-five years, regardless of any change of ownership of any qualifying units. At a minimum, the agreement shall specify the following for the qualifying units in the development, all of which, with the exception of the density bonus units and other concessions, incentives, modifications, and waivers required by State Density Bonus Law, shall be approved at the County's discretion:
 - (1) The number of qualifying units, their size and number of bedrooms.
 - (2) The party/process responsible for certifying buyer/tenant eligibility, which must be approved by the County Housing Department.
 - (3) The method by which vacancies will be marketed and filled, which must be approved by the County Housing Department.
 - (4) The standards for maximum qualifying incomes for very low, low, or moderate income households, which must be approved by the County Housing Department.
 - (5) The standards for maximum rents for qualifying units for very low, low,

or moderate income households, which must be approved by the County Housing Department.

- (6) The restrictions and enforcement mechanisms binding on the property upon sale or transfer, which shall be in accordance with the provisions of State Density Bonus Law and must be approved by the County Housing Department.

The above provisions shall take the form of a binding agreement between the developer and the County, and execution of the agreement shall be a condition of permit approval. The above provisions shall also be, in the case of rental units, recorded as a deed restriction on the title of the rental property, and in the case of for-sale units, as a deed restriction on the title of each of the individual qualifying for-sale unit. The form of agreement shall be approved by County Counsel.

SECTION 6440.11. PROCEDURE FOR GRANTING OF DENSITY BONUS.

1. Application for Density Bonus and Determination of Bonus

- a. Formal application and determination. An applicant requesting a density bonus pursuant to the provisions of this Chapter shall make a request for the bonus, describing the bonus requested, the qualifying units proposed, and any concessions, incentives, waivers, and modifications requested, in addition to any financial justification or other documentation as required by this Chapter, upon submittal of an application for development.

When the application is deemed complete, the County shall provide the applicant with a determination of the amount of the density bonus for which the project is eligible, and a determination of all other incentives, concessions, waivers, and modifications that will be granted.

- b. Preliminary Application and County Guidance. Prior to formal submittal of an application for project approval, an applicant may submit to the County a preliminary proposal for the development of housing pursuant to this Chapter. The preliminary proposal should describe the project, specifying the total number of units, the proposed number and type of qualifying units, and any concessions, incentives, modifications and/or waivers requested. The preliminary proposal should also include a statement demonstrating how the concessions and/or incentives will improve the financial feasibility of the project and assist the developer in providing the qualifying units.

Within 90 days of receipt of a preliminary proposal, the County shall notify the developer in writing of the manner in which the County will comply with this Chapter. The report to the developer should confirm the maximum attainable density of residential development allowed by the Zoning Regulations for the subject site, the number of density bonus units that will

be allowed, and which concessions, incentives, modifications, and/or waivers will be granted by the County, pending formal approval by the relevant decision-maker, and the justification for denying any requested concessions, incentives, modifications, or waivers, if applicable.

2. Project Approval and Granting of Density Bonus

- a. The density bonus shall be granted by the County ministerially, without any additional discretionary approvals separate from those otherwise required for the project, based on the number of qualifying units proposed.
- b. Any concessions, incentives, waivers, and modifications granted to the project will also be considered and approved by the final decision-maker for the project, which, depending on the nature of the approvals required for the project, may be the Community Development Director, the Zoning Hearing Officer, the Planning Commission, or the Board of Supervisors. However, any denial of requested concessions, incentives, waivers, or modifications, if applicable, must be accompanied by written findings establishing the basis for the denial, and meeting the requirements of State Density Bonus Law

SECTION 3. CALIFORNIA ENVIRONMENTAL QUALITY ACT. Approval of this ordinance is exempt from environmental review under the general rule in California Environmental Quality Act (“CEQA”) Guidelines Section 15061(b)(3) that CEQA only applies to projects that have the potential for causing a significant effect on the environment, because: the ordinance provides a density bonus for the inclusion of affordable housing units within some residential development projects pursuant to the County Zoning Regulations; those projects will be the subject of independent environmental review, if required by CEQA, prior to approval; and there can therefore be no possibility that the adoption of the ordinance itself will have a significant effect on the environment. Adoption of this ordinance is also exempt from environmental review under the general rule in California Environmental Quality Act (“CEQA”) Guidelines Section 15061(b)(3) because the ordinance is a local implementation of State laws that the County has no discretion to disregard or disapprove, and which are already in effect

and applicable to projects in the unincorporated County regardless of any amendments to the County's local ordinance.

SECTION 4. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, it shall not affect the remaining portions of this Ordinance.

SECTION 5. PUBLICATION. The Clerk of the Board shall publish this Ordinance in accordance with applicable law.

SECTION 6. EFFECTIVE DATE. This Ordinance shall be effective thirty (30) days from the passage date thereof, except in the County's Coastal Zone, where it shall be effective immediately upon certification by the California Coastal Commission.

* * * * *

WG:pac – WSGEE0209_WPU-T (Rev 2).DOCX



COUNTY OF SAN MATEO - PLANNING AND BUILDING DEPARTMENT

ATTACHMENT C

ORDINANCE NO. _____

BOARD OF SUPERVISORS, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

* * * * *

AN ORDINANCE MAKING MINOR SECTION NUMBERING AND WORDING CHANGES TO VARIOUS SECTIONS OF CHAPTER 1 (DENSITY BONUS PROGRAM), PART SIX (SPECIAL HOUSING REQUIREMENTS), DIVISION VI (PLANNING), SAN MATEO COUNTY ORDINANCE CODE

* * * * *

The Board of Supervisors of the County of San Mateo, State of California, DO ORDAIN as follows:

Section 1. Sections 7902.1, 7902.2a(1), 7902.2a(3), 7903.1, 7903.2a(1), 7903.2a(3), 7903.2a(4), 7904.1a(1) of Chapter 1, Part VI, Division VI are hereby amended to read as follows:

Section 7902.1:

1. Eligibility for First Density Bonus

To be eligible for a first density bonus of 25 percent and an additional incentive pursuant to this Chapter, a development project shall: (1) meet the definition of "residential development" contained in Section 7901.8; (2) meet all requirements and standards of the County Zoning Regulations; and (3) be located anywhere within unincorporated San Mateo County, except the rural area of the Coastal Zone. Development projects located within the rural area of the Coastal Zone are not eligible for a density bonus pursuant to this Chapter. A separate density bonus program, as described in Local Coastal Program Policy 3.23, applies in the rural areas of the Coastal Zone.

Section 7902.2a(1):

(1) Ten (10) percent of the total units in a residential development will be constructed for very low income households, as defined in Section 7901.10.

Section 7902.2a(3):

(3) Fifty (50) percent of the total units in a residential development will be constructed for senior households, as defined in Section 7901.9.

Section 7903.1:

1. Eligibility for Second Density Bonus

To be eligible for a second density bonus pursuant to this section, a development project shall meet all of the requirements to qualify for the first density bonus as set forth in Section 7902, except that no second density bonus shall be granted in the Coastsid Commercial Recreation Zoning District.

Section 7903.2a(1):

(1) An additional 10 percent or more of the total units in a residential development will be constructed for very low income households, as defined in Section 7901.10.

Section 7903.2a(3):

(3) An additional 30 percent or more of the total units in a residential development will be constructed for moderate income households, as defined in Section 7901.6.

Section 7903.2a(4):

(4) An additional 30 percent or more of the total units in a residential development will be constructed for lower income senior households, as defined in Sections 7901.3 and 7901.9.

Section 7904.1a(1):

(1) Step One: Determine the maximum attainable density of residential development allowed by the County Zoning Regulations for the zoning district in which the residential development is located. As defined in Section 7901.5, this shall be based on application of the following to an existing parcel of record: (1) density standards (maximum net density); and (2) other required development standards (e.g., setbacks, parking) contained in the County Zoning Regulations.

Section 2. This Ordinance will be in full force and effect thirty (30) days after determination by the California Coastal Commission that enactment of this ordinance by the San Mateo County Board of Supervisors constitutes legally adequate acceptance of modifications made by the Coastal Commission.

LA:fc - LAAF1689.AFQ

ORDINANCE NO. _____

BOARD OF SUPERVISORS, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

* * * * *

AN ORDINANCE REPEALING PART VI (SPECIAL HOUSING REQUIREMENTS), SECTIONS 7900 TO 7907 (DENSITY BONUS PROGRAM FOR DESIRED HOUSING TYPES) OF DIVISION VI OF THE COUNTY ORDINANCE CODE (PLANNING), AND ADDING PART VI (SPECIAL HOUSING REQUIREMENTS), SECTIONS 7900 TO 7907 (DENSITY BONUS PROGRAM) TO DIVISION VI (PLANNING) OF THE COUNTY ORDINANCE CODE, AS CERTIFIED BY THE CALIFORNIA COASTAL COMMISSION

* * * * *

The Board of Supervisors of the County of San Mateo, State of California, DO ORDAIN as follows:

Section 1. Part VI, Chapter 1, Sections 7900, 7901, 7902, 7903, 7904, 7905, 7906, and 7907 of Division VI of the County Ordinance Code are hereby repealed.

Section 2. Part VI, Chapter 1, Sections 7900, 7901, 7902, 7903, 7904, 7905, 7906, and 7907 are hereby added to Division VI of the County Ordinance Code to read as follows:

CHAPTER 1. DENSITY BONUS PROGRAM

SECTION 7900.PURPOSE

SECTION 7901.DEFINITIONS

SECTION 7902.REQUIREMENTS TO QUALIFY FOR FIRST DENSITY BONUS OF 25 PERCENT AND ADDITIONAL INCENTIVE

SECTION 7903.REQUIREMENTS TO QUALIFY FOR SECOND DENSITY BONUS OF UP TO 25 PERCENT

SECTION 7904.METHOD OF CALCULATING THE NUMBER OF QUALIFYING AND DENSITY BONUS UNITS

SECTION 7905.STANDARDS FOR QUALIFYING UNITS

SECTION 7906.LOCATION OF DENSITY BONUS UNITS

SECTION 7907.PROCEDURE FOR GRANTING OF DENSITY BONUS AND INCENTIVE

SECTION 7900. PURPOSE

The purpose of this Chapter is to:

1. Increase the supply of housing units in the unincorporated area for very low and lower income and senior households who are most in need of housing, by offering a density bonus and other incentives to developers of new residential developments that include housing units for very low or lower income, or senior households, as specified in Section 7902;
2. Encourage increased diversity in new housing constructed in the unincorporated area for very low and lower income households by offering a supplemental density bonus to developers of new residential developments that include housing units for lower income disabled households or large rental units of three bedrooms or more for larger families of lower income, as specified in Section 7903;
3. Implement the State Density Bonus Law (Sections 65915 and 65917 of the State Government Code); and
4. Implement Policies 14.38 and 14.47 of the San Mateo County General Plan (Housing Chapter).

SECTION 7901. DEFINITIONS

1. Density Bonus Unit

A density bonus unit is defined as a dwelling unit within a residential development, which has been granted to the developer in exchange for having met the requirements of this Chapter.

2. Disabled Household

A disabled household is defined as a household with at least one person who has a physical or mental impairment that substantially limits one or

more major life activities, such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working (Source: 24 CFR Part 8, Section 8.3).

3. Lower Income Household

A lower income household is defined as a household whose income, with adjustments for household size, does not exceed the qualifying limits for lower income households as established by and amended from time to time by the U.S. Department of Housing and Urban Development pursuant to Section 8 of the United States Housing Act of 1937, as amended. The current lower income limits are available at the offices of the County Housing and Community Development Division.

4. Maximum Net Density

Maximum net density is defined as the maximum number of dwelling units allowed on a parcel per net acre.

5. Maximum Attainable Density of Residential Development Allowed by Zoning

Maximum attainable density of residential development is defined as the maximum number of dwelling units permitted on an existing parcel of record based on application of: (1) density standards (maximum net density); and (2) all other required development standards (e.g., setbacks, parking) contained in the County Zoning Regulations. Maximum attainable density may be less than the maximum net density.

6. Moderate Income Household

A moderate income household is defined as a household whose income, with adjustments for household size, does not exceed 110 percent of the median household income of the Primary Metropolitan Statistical Area (PMSA) as established by and amended from time to time by the U.S.

Department of Housing and Urban Development pursuant to Section 8 of the United States Housing Act of 1937, as amended. The current moderate income limits are available at the offices of the County Housing and Community Development Division.

7. Qualifying Unit

A qualifying unit is defined as a dwelling unit included in a residential development which enables the developer to qualify for a density bonus and incentive, as well as a supplemental density bonus, as required by this Chapter. Qualifying units include: (1) units reserved for occupancy by very low or lower income, senior, or disabled lower income households, or (2) large rental units with three or more bedrooms reserved for occupancy by lower income families.

8. Residential Development

A residential development is defined as a project, or group of projects being developed simultaneously by the same developer within the same unincorporated planning area, that contains five (5) or more parcels or dwelling units as allowed by the County Zoning Regulations, excluding any density bonus or second units. A residential development may include one or more housing types designed for permanent occupancy including, but not limited to, single family dwellings and/or multiple-family dwellings (both ownership and rental).

9. Senior Household

A senior household is defined as a household with at least one person who is 62 years of age or older.

10. Very Low Income Household

A very low income household is defined as a household whose income, with adjustments for household size, does not exceed the qualifying limits for very low income households as established by and amended from time to time by the U.S. Department of Housing and Urban Development pursuant to Section 8 of the United States Housing Act of 1937, as amended. The current very low income limits are available at the offices of the County Housing and Community Development Division.

SECTION 7902. REQUIREMENTS TO QUALIFY FOR FIRST DENSITY BONUS OF 25 PERCENT AND ADDITIONAL INCENTIVE

1. Eligibility for First Density Bonus

To be eligible for a first density bonus of 25 percent and an additional incentive pursuant to this Chapter, a development project shall: (1) meet the definition of "residential development" contained in Section 7901.8; (2) meet all requirements and standards of the County Zoning Regulations; and (3) be located anywhere within unincorporated San Mateo County, except the rural area of the Coastal Zone. Development projects located within the rural area of the Coastal Zone are not eligible for a density bonus pursuant to this Chapter. A separate density bonus program, as described in Local Coastal Program Policy 3.18, applies in the rural areas of the Coastal Zone.

2. Minimum Requirements to Qualify for First Density Bonus of 25 Percent and Additional Incentive

In addition to the maximum attainable density of residential development allowed by the County Zoning Regulations on an existing parcel of record, (1) a 25 percent density bonus, and (2) at least one additional incentive, determined on a case-by-case basis, shall be granted for a residential development meeting one of the following requirements:

a. Requirements

(1) Ten (10) percent of the total units in a residential development will be constructed for very low income households, as defined in Section 7901.8; or

(2) Twenty (20) percent of the total units in a residential development will be constructed for lower income households, as defined in Section 7901.3; or

(3) Fifty (50) percent of the total units in a residential development will be constructed for senior households, as defined in Section 7901.7.

b. First Density Bonus

The first density bonus to be granted in exchange for meeting the above requirements is a density increase of at least 25 percent over the otherwise maximum attainable density of residential development allowed by the County Zoning Regulations as of the date application is made to the County for a density bonus under this Chapter.

c. Incentives

The additional incentive offered in conjunction with the first density bonus of 25 percent is intended to facilitate the construction of the qualifying and density bonus units included in a residential development. The incentives offered are as follows:

(1) Modification of zoning code requirements (e.g., minimum open space, minimum lot size, setbacks, parking standards) except where such modification would compromise coastal resources. For example, no modification of zoning code requirements shall be allowed if such modification would impede coastal access, allow otherwise prohibited development in a sensitive habitat as defined in Policy 7.1 of the Land Use Plan or allow development that would

negatively impact a sensitive habitat, or allow development that would impair visual resources; or

(2) Allowance of other regulatory incentives or measures which can be shown to result in construction cost reductions, without compromising public policy (e.g., expedited permit processing, use of redevelopment funds or powers, if any, or other publicly assisted financing).

SECTION 7903. REQUIREMENTS TO QUALIFY FOR SECOND DENSITY BONUS OF UP TO 25 PERCENT

1. Eligibility for Second Density Bonus

To be eligible for a second density bonus pursuant to this Section, a development project shall meet all of the requirements to qualify for the first density bonus as set forth in Section 7902.

2. Minimum Requirements to Qualify for Second Density Bonus of Up to 25 Percent

A second density bonus of up to 25 percent in addition to the first density bonus may be granted by the County to those residential developments that meet the requirements set forth in Section 7902, and meet at least one of the following requirements:

a. Requirements

(1) An additional 10 percent or more of the total units in a residential development will be constructed for very low income households, as defined in Section 7901.8;

(2) An additional 20 percent or more of the total units in a residential development will be constructed for lower income households, as defined in Section 7901.3;

(3)An additional 30 percent or more of the total units in a residential development will be constructed for moderate income households, as defined in Section 7901.4.

(4)An additional 30 percent or more of the total units in a residential development will be constructed for lower income senior citizens, as defined in Section 7901.7;

(5)An additional 10 percent or more of the total units in a residential development will be constructed for lower income disabled households, as defined in Section 7901.2; or

(6)An additional 10 percent or more of the total units in a residential development will be constructed as large rental units with three or more bedrooms and reserved for lower income households, as defined in Section 7901.3.

b.Second Density Bonus

The second density bonus of up to 25 percent to be granted in exchange for meeting the above requirements is in addition to the first density bonus of 25 percent. The actual amount of the second density bonus will be determined on a case-by-case basis, but shall not exceed 25 percent of the maximum attainable density of residential development allowed by the County Zoning Regulations as of the date application is made to the County for a density bonus under this Chapter. In no event shall the total density bonus (the number of first bonus units plus the number of second bonus units) exceed 50 percent of the maximum attainable density of residential development allowed by the County Zoning Regulations.

SECTION 7904. METHOD OF CALCULATING THE NUMBER OF QUALIFYING AND DENSITY BONUS UNITS

1. Sequence of Calculations

The maximum attainable density allowed by zoning, the number of qualifying units and density bonus units shall be calculated as follows.

a. First Density Bonus

(1) Step One: Determine the maximum attainable density of residential development allowed by the County Zoning Regulations for the zoning district in which the residential development is located.

As defined in Section 7901.4, this shall be based on application of the following to an existing parcel of record: (1) density standards (maximum net density); and (2) other required development standards (e.g., setbacks, parking) contained in the County Zoning Regulations.

(2) Step Two: Determine the number of qualifying units required to receive the first density bonus.

Maximum Attainable Density of Residential Development Allowed by Zoning	X	Percent Very Low (.10), Lower Income (.20), or Senior (.50) Units Required	=	Number of Qualifying Units Required for First Density Bonus
--	---	--	---	---

(3) Step Three: Determine the number of first bonus units to be granted.

Maximum Attainable Density of Residential Development Allowed by Zoning	X	Percent Bonus (.25)	=	Number of First Bonus Units
--	---	---------------------	---	--------------------------------

(4) Step Four: Determine the total number of project units including the density bonus.

$$\begin{array}{l} \text{Maximum Attainable} \\ \text{Density of Residential} \\ \text{Development Allowed by} \\ \text{Zoning} \end{array} + \begin{array}{l} \text{Number of First} \\ \text{Bonus Units} \end{array} = \begin{array}{l} \text{Total Number of} \\ \text{Project Units} \end{array}$$

(5) Determine Incentive per Section 7902.2 and apply to project.

b. Second Density Bonus

(1) Step One: Determine the number of additional qualifying units required to receive a second density bonus.

$$\begin{array}{l} \text{Maximum Attainable} \\ \text{Density of Residential} \\ \text{Development Allowed} \\ \text{by Zoning} \end{array} \times \begin{array}{l} \text{Percent Very Low, Lower,} \\ \text{Moderate Income, Senior,} \\ \text{Disabled or Large} \\ \text{Units Required} \end{array} = \begin{array}{l} \text{Number of Qualifying} \\ \text{Units Required for} \\ \text{Second Density Bonus} \end{array}$$

(2) Step Two: Determine the number of second bonus units to be granted.

$$\begin{array}{l} \text{Maximum Attainable} \\ \text{Density of Residential} \\ \text{Development Allowed} \\ \text{by Zoning} \end{array} \times \begin{array}{l} \text{Percent Bonus (up to .25)} \end{array} = \begin{array}{l} \text{Number of Second} \\ \text{Bonus Units} \end{array}$$

(3) Step Three: Determine the total number of project units including both density bonuses.

$$\begin{array}{l} \text{(a) Number of First Bonus} \\ \text{Units} \end{array} + \begin{array}{l} \text{Number of Second} \\ \text{Bonus Units} \end{array} = \begin{array}{l} \text{Total Number of Bonus} \\ \text{Units} \end{array}$$

$$\begin{array}{l} \text{(b) Maximum Attainable} \\ \text{Density of Residential} \\ \text{Development Allowed} \\ \text{by Zoning} \end{array} + \begin{array}{l} \text{Total Number of} \\ \text{Bonus Units} \end{array} = \begin{array}{l} \text{Total Number of Project} \\ \text{Units} \end{array}$$

2. Units Not to be Included in Calculations

a. When calculating the maximum attainable density of residential development allowed by zoning, neither second dwelling units nor density bonus units shall be counted.

b. When calculating the number of qualifying units required to receive the first or second density bonus, neither second dwelling units nor density bonus units shall be counted.

c. When calculating the number of first or second density bonus units to be granted, neither second dwelling units nor density bonus units shall be counted.

3. Rounding of Fractional Numbers

a. For the purposes of this Chapter when calculating the maximum attainable density of residential development allowed by zoning, any resulting fraction of a unit shall be disregarded, unless the County Zoning Regulations clearly state otherwise.

b. For the purposes of this Chapter, when calculating (1) the number of qualifying units required to receive a density bonus and (2) the number of density bonus units to be granted, any resulting fraction of a unit shall be counted as one dwelling unit.

SECTION 7905. STANDARDS FOR QUALIFYING UNITS

Qualifying units shall meet the following standards.

1. Standards for Design and Construction of Qualifying Units

a. Qualifying units must be constructed concurrently with the other units in a residential development.

Where the phasing of construction is necessary, each phase shall provide the required ratio of qualifying units to market-rate units to insure that the qualifying units are made available for sale or rent at the same time as other units in the development.

b. Qualifying units shall be integrated into the overall design and distributed throughout the development.

The units shall generally be of the same size and quality and shall have similar amenities as the market-rate units, and their exterior materials and appointments shall be architecturally compatible with the market-rate units in the development.

c. The mix of unit sizes and bedroom counts in the qualifying units shall be directly proportional to the mix of unit sizes and bedroom counts provided in the development as a whole (i.e., if 20 percent of the units are of one size and style, 20 percent of the qualifying units shall be of that size and style).

2. Occupancy Standards for Qualifying Units

Qualifying units are to be sold or rented only to households certified by the County Housing and Community Development Division as very low or lower income, senior, or disabled lower income households, as defined in Section 7901.

3. Specific Standards for Ownership Qualifying Units

a. Price Levels for Price Restricted Units

Ownership qualifying units shall be offered at sales prices that are considered affordable to very low, lower or moderate income households, as established periodically by resolution of the Board of Supervisors. The resolution shall set forth the actual maximum sales prices and/or rental rates and shall remain in effect until modified or rescinded by the Board of Supervisors.

b. Buyer Certification and Selection

Qualifying units are to be sold to households certified by the County Housing and Community Development Division under Section 7905.2. Buyers eligible to purchase qualifying units will be selected by the developer in accordance with a marketing program approved, in advance, by the Director of Housing and Community Development. The marketing program shall set forth an equitable selection process to be used for the marketing of the affordable units established in conformance with this Chapter. Selection criteria may include, but not be limited to, household income and assets, household size, and the size of available units. In addition, priority may be given, first, to current residents of San Mateo County, and second, to persons employed in San Mateo County.

c. Guarantee of Continued Availability; Resale Controls

(1) In order to maintain the availability of the price restricted qualifying units constructed pursuant to the requirements of this Chapter, the purchase price paid by the original qualified purchaser and each subsequent purchaser of an ownership qualifying unit shall be limited to:

(a) The original purchase price plus the percentage increase defined in the original deed from the developer to the first eligible home buyer, plus the amount of any substantial capital improvement expenditures greater than one percent of the original purchase price, minus any costs necessary to bring the unit into conformity with County Building Regulations in the event that the occupant has allowed the unit to deteriorate due to deferred maintenance; or

(b) The fair market value, whichever is less.

(2) For price restricted qualifying units, the deed restrictions, recorded as part of the grant deed to the first eligible home buyer, shall contain provisions which will provide the County with a first right to either purchase the unit at the contract price or assign the County's first right to a eligible buyer. It will also contain language that, in the event that the County fails to exercise its first right to purchase, requires the seller to sell the unit at the defined "affordable sales price" to an eligible buyer selected by the seller. The seller shall not be allowed to levy or charge any additional fees nor shall any "finders fee" or other monetary consideration be allowed other than customary real estate commissions and closing costs.

(3) The owners of any qualifying unit shall incorporate as a part of the grant deed conveying title of any such unit, the declaration of restrictions, stating the restrictions imposed by this Chapter including, but not limited to, all applicable resale controls and occupancy restrictions. The terms of the restrictions shall specifically assign to the County all of the sellers' rights to enforce the declaration of restrictions in the manner provided by law. The County or its designee shall monitor resales of qualifying units, for purposes of preventing any abuse or violation of sale or resale controls.

4. Specific Standards for Rental Qualifying Units

a. Rent Levels for Rent Restricted Units

Rent restricted qualifying units shall be offered at rent levels that are considered affordable to very low or lower income households, as established periodically by resolution of the Board of Supervisors.

b. Tenant Certification and Selection

Rental qualifying units are to be rented to households certified by the County Housing and Community Development Division under Section 7905.2. Owners of rental qualifying units must make available to the authorized staff of the Housing and Community Development Division adequate records in order to prove to the County that all tenants occupying the designated affordable rental units are eligible under the term of this ordinance and the specific agreement implementing the affordability and occupancy requirements executed by the County and the developer at the time of construction of the units. The agreement will provide for a fair and equitable tenant selection process to insure the selection of eligible tenants. Selection criteria may include, but not be limited to, amount of household income and assets, household size, and the size of available units. In addition, priority may be given, first, to current residents of San Mateo County, and second, to persons employed in San Mateo County.

c. Guarantee of Continued Availability; Rent Controls

A developer of rental qualifying units required by this Chapter will be required to enter into an agreement with the County which will guarantee the continued availability of such units to certified eligible tenants through a recorded agreement with the County. This agreement will be recorded when construction of the units commences. The agreement must state that the developer agrees, and binds any successors, to maintain availability of the units to certified eligible tenants for forty (40) years from the recordation of the Notice of Completion of the units.

SECTION 7906. LOCATION OF DENSITY BONUS UNITS

Density bonus units shall be distributed throughout the residential development from which they were generated.

SECTION 7907. PROCEDURE FOR GRANTING OF DENSITY BONUS AND INCENTIVE

1. Preliminary Application

- a. A developer may submit to the County a preliminary proposal for the development of housing pursuant to this Chapter prior to the submittal of any application for formal approval (such as a general plan amendment, zoning amendment, or subdivision map approval). The preliminary proposal should describe the project, specifying the total number of units, the proposed number and type of qualifying units, and which type of incentive, of those listed in Section 7902.2, is being requested. The proposal should also include a statement as to how the granting of that incentive will improve the financial feasibility of the project and assist the developer in providing the qualifying units.
- b. Within 90 days of receipt of a preliminary proposal, the County shall notify the developer in writing of the manner in which the County will comply with this Chapter. The report to the developer should include confirmation of the maximum attainable density of residential development allowed by the County Zoning Regulations for the subject site, the number of density bonus units that will be allowed, and which incentive, of those listed in Section 7902.2, will be offered by the County pending formal approval by the Planning Commission and/or Board of Supervisors.

2. Project Approval and Granting of Density Bonus and Incentive

- a. In the Coastal Zone, the density bonus and incentive shall be granted by the Planning Commission.
- b. Outside the Coastal Zone, the density bonus and incentive shall be granted by the project decision-maker in accordance with other planning or building permits required for the project. If the project decision-maker is the Planning Director, he/she may refer the project, including the granting of the density bonus and incentive, to the Planning Commission.

3. Developer to Enter Into Recorded Agreement Prior to Approval of Project

Prior to formal approval of the project, the developer shall enter into an agreement with the County, which shall be recorded, specifying the manner of compliance with this Chapter. At a minimum, the agreement shall specify the following for the qualifying units in the development:

- a. The number of qualifying units, their size and number of bedrooms, per Section 7905.1.

- b. The party/process responsible for certifying buyer/tenant eligibility, per Section 7905.2.
- c. How vacancies will be marketed and filled, per Sections 7905.3 and 4.
- d. The standards for maximum qualifying incomes for very low, lower, or moderate income households, per Sections 7901 and 7905.2.
- e. The standards for maximum sales prices or rents for qualifying units for very low, lower, or moderate income households, per Sections 7905.3 and 4.
- f. The restrictions and enforcement mechanisms binding on the property upon sale or transfer, per Sections 7905.3 and 4.

Section 3. This ordinance shall be in full force and effect thirty (30) days after its passage.

LA:fc - LAAD2441.AFQ
(12/31/93)