

APPENDIX A
INCLUSIONARY HOUSING PROGRAM:
BACKGROUND, POLICY, AND IMPLEMENTATION

Inclusionary Housing Program: Purpose and Background

The Inclusionary Housing Program (IHP) is an incentive program intended to provide more affordable housing within the County. Any new housing project which will develop five or more housing units is subject to the requirements of the program. The IHP requires that a portion of the new housing developed as part of these projects be sold or rented at affordable rates, as determined by the State Department of Housing and Community Development (SHCD). In some areas of the County, developers can choose alternative options to providing this affordable housing onsite, as part of their project. These alternative options include donating land to the County which can be used for the future development of affordable housing, converting existing market rate units to affordable units, or paying “in-lieu fees” to the County which can be used to finance other affordable housing projects in the low to very-low income categories.

The County’s IHP is structured to respond to available funds. The IHP encourages developers to build moderate and workforce housing for which few grants are available, while the County uses leveraged funds (grants and in-lieu) to provide more low and very low income housing than would be built under other programs.

IHP Administration

The IHP is administered by two County Departments – the Planning & Development department and the County Housing and Community Development Department (CHCD). Planning & Development interfaces with the developer, oversees the planning process, and establishes any development agreements needed to facilitate the approval of projects triggering the IHP by the Planning Commission or Board of Supervisors. The Office of Long Range Planning, a division of Planning & Development, is responsible for amendments to the IHP policy because the Housing Element update process has historically provided an administrative avenue for updates to the IHP. CHCD oversees implementation of the IHP after the project has been structured (i.e., after it has been determined how the developer will meet his or her IHP requirements. CHCD calculates the amount of any in-lieu fees, sets the price of affordable ownership units, runs lotteries for available homes, and oversees the sales and marketing efforts of developers. Through their Housing Development and Grants Division, CHCD manages the County’s Housing Trust fund into which in-lieu fees are deposited.

2003-2008 Housing Element Updates to the IHP

To address the County’s changing market conditions, community need and program deficiencies, Planning & Development proposed program revisions to the existing IHP, which were adopted by the Board of Supervisors in 2004.

In addition, the County retained an economic consultant, Bay Area Economics, to analyze the financial impact and feasibility of the proposed IHP. The firm produced a report showing that even with the increased affordable requirement from a maximum of 20% to 30% in some areas; projects continue to be financially feasible and also profitable. The study found that the density increase allows for inclusion of affordable and workforce units within a project without increasing the cost of market rate units in the project.

On November 23, 2004, the Board of Supervisors voted to adopt an update to the County's existing Inclusionary Housing Program, identified as the first action item for decision-maker consideration in the County's adopted 2003-2008 Housing Element. To mitigate any impacts this may have on the cost and supply of new housing, the adopted program includes a 1:1 guaranteed density increase for each moderate and/or workforce unit built on-site that will offset the cost to market rate homes in the project.

The 2004 program revisions address the need for housing middle income workers in some parts of the County (South Coast and Santa Ynez HMAs). This new "workforce" category recognizes the need for housing that is attainable to working class households who don't qualify for traditional affordable housing but are unable to afford market rate housing due to the high area home prices in certain regions of Santa Barbara County. Similar to State Bonus Density Law, the updated program offers a guaranteed density increase for affordable and workforce units built on-site. This allows land costs for affordable and workforce units to be reduced or eliminated, significantly increasing the financial returns of projects.

Following amendments to the Housing Element, a comprehensive audit carried out by the County Auditor-Controller's office in 2006 identified administrative changes that needed to take place in order for the IHP to be properly administered, which have since been fully implemented.

Anticipated Update to the Inclusionary Housing Program Following the 2009-2014 Housing Element Adoption

The 2009-2014 Housing Element update process provides an opportunity to concurrently review and revise the County's IHP. Accordingly, an independent study was commissioned with Economic & Planning Systems, Inc. (EPS) to review the overall effectiveness of the program, and comment on the feasibility of implementing recommendations received from the Affordable Housing Policy Committee (AHPC). The AHPC was appointed by the Board of Supervisors in 2007 to review the IHP and other housing policy issues.

The EPS report was based on substantial economic analysis, a survey of best-practices literature, discussions with County staff, and a review of comparable Counties. In addition, stakeholder input was solicited and received from the building industry, housing finance representatives, planning organizations, and other community groups to develop a program that is effective and responsive to the current and future housing needs of the County.

Ultimately, EPS concluded that an IHP can be a valuable tool, if properly administered. However, programmatic success is very sensitive to market conditions, particularly in North County, where housing cannot currently be sold at prices high enough to cover development costs. Accordingly, EPS concurred with many of the AHPC recommendations, especially those concerning the need for increased programmatic flexibility and responsiveness. Therefore, to implement these changes without compromising the ability to make additional ongoing programmatic revisions throughout the planning period, Program 1.2 of the Housing Element update proposes to move the IHP from the General Plan into an ordinance.

Incorporating the IHP into an ordinance is by far the standard method for program administration in most jurisdictions, and provides the most effective way to implement

stakeholder recommendations.¹ This is because an ordinance enables jurisdictions to include significant detail necessary for a successful IHP, including definitions of affordable housing, incentives for developers, programmatic requirements and exemptions, and administrative procedures. While common in ordinances, such details are rarely included in policy documents such as the General Plan Housing Element. Moreover, codifying an IHP in an ordinance provides for a degree of flexibility, allowing for the opportunity to review and update the program on a regular basis, while avoiding the significant administrative burden inherent to a General Plan amendment. For example, Santa Cruz County reviews its ordinance annually to account for changes in the real estate market or to make incremental program improvements. This has contributed to the effectiveness of the IHP in that jurisdiction.²

IHP Action Timeline: 2009-2014 Planning Cycle

As stated in Program 1.2 of the 2009-2014 Housing Element update, the Office of Long Range Planning has reviewed the IHP and will work with the CHCD (responsible agency) to increase the effectiveness of the program. With a scope of work and timeline prepared in anticipation of the Housing Element update, staff will establish a new IHP ordinance to supersede the existing program no later than two years following adoption of the 09-14 Housing Element. This new ordinance will include necessary programmatic documents and fee schedules, and will be easily understood and accessed by the public.

Prior to the establishment of this new IHP ordinance, the existing program will apply. The detailed components of this existing program are provided below, and have been consolidated from the 2003-2008 Housing Element update and the Housing Element Implementation Guidelines. In summary, these include:

- Inclusionary Housing Program Requirements (Policy A-1),
- In-lieu fees (Policy A-2)
- Affordable Housing Priority, Lotteries, and Marketing (Policies A-3 and A-4)
- Specific Implementation Guidelines

¹ County of Santa Barbara Inclusionary Housing Program evaluation prepared by Economic & Planning Systems, Inc. September, 2009.

² IBID

Inclusionary Housing Program *(amended by Resolution No. 04-338, 11/23/04 and No. 06-142, 5/9/06)*

Policy A-1: To increase the supply of price restricted affordable housing, the County shall require the provision of units, the donation of land, and/or the payment of fees for specified types of discretionary residential projects. Projects shall comply with the requirements set forth in the following Development Standards:

Development Standard A-1.1: This policy shall apply to all residential developments of five or more net new lots or primary units including lot sale land divisions, divisions of agriculturally designated land, projects that qualify for the Density Bonus Program on the basis of providing housing for seniors ("qualifying residents" per Government Code §65915-65918) without regard to affordability, and conversions of five or more existing residential rental units to condominiums, stock cooperatives, or community apartments. The following projects are exempt from the Inclusionary Housing Program:

- Projects that qualify for the State Density Bonus Program by providing price restricted affordable units,
- Projects in the Cuyama HMA,
- Projects on parcels under Williamson Act contract,
- Projects on parcels zoned Agriculture II with a minimum parcel size 40 acres or greater,
- Projects constructed by non-profit developers with United States Department of Agriculture funding,
- Mixed use projects of fewer than 10 residential units,
- Mixed use projects including 100% rental residential units,
- Projects that are 100% rental and built at a density of 10 units per gross acre or greater, and
- On- or off-site housing developed and controlled by employers that is dedicated for sale or rent by their employees.

Subsequent applications submitted within five years of prior approval of a project on a site that was exempt from the Inclusionary Housing Program shall be subject to inclusionary requirements for the total number of units and/or lots on that site including the proposed project and previously exempt units and/or lots.

Development Standard A-1.2: In the South Coast and Santa Ynez HMAs the following requirements shall apply to the projects identified in Development Standard 1.1:

- 5% very low income units, and
- 5% low income units, and
- 10% moderate income units, and

- 10% workforce income units.

Development Standard A-1.3: In the Santa Maria and Lompoc HMAs the following requirements shall apply to projects identified in Development Standard 1.1:

- 5% very low income units, and
- 5% low income units, and
- 10% moderate income units.

Development Standard A-1.4: Existing legal units or lots in a project shall not be counted toward application of the inclusionary requirement, except where the rental units are being converted to ownership units such as condominiums, stock cooperatives, or community apartments, except as may be provided in the Local Coastal Plan for Isla Vista (Local Coastal Plan Policy 5-10).

Development Standard A-1.5: If the number of units required for a project includes a fraction of a unit or if the project includes fewer than 10 total units, the developer shall provide either a whole unit or pay a pro-rated fee for the fractional unit.

Development Standard A-1.6: Projects may meet inclusionary requirements by providing an equal or greater number of units in a lower income category than would otherwise be required.

Development Standard A-1.7: Outside the Coastal Zone, all applicants may build units on-site, pay fees, donate land, or do some combination of these options to satisfy inclusionary requirements.

Development Standard A-1.8: In the Coastal Zone, pursuant to Government Code §§65590-65590.1, the inclusionary requirements must be met by building on-site. Where this is not feasible, the inclusionary requirements must be met in the County within the Coastal Zone or within three miles thereof. In rare and limited circumstances, where neither of these is feasible, such projects may meet the inclusionary requirements by paying fees.

Development Standard A-1.9: Projects shall receive a density increase of one unit over base density for each required moderate and/or workforce inclusionary unit built on-site. If fractional moderate and/or workforce requirements are met by building a unit on-site the project shall receive a density increase for that unit.

Paying fees to satisfy a portion of the inclusionary requirements in addition to building units on-site shall not prevent a project from receiving the applicable density increase for those inclusionary units that are built on-site. This density increase shall be granted unless the County makes findings that the project as proposed would have a specific, adverse impact upon public health or safety and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact other than not granting the density increase incentive.

Development Standard A-1.10: In accordance with the development standard modification provisions in the County's Zoning Ordinance, the County shall consider granting reasonable

development standard modifications that are necessary to accommodate the construction of additional units allowed through the density increase incentive. These modifications should be balanced with appropriate design revisions made by the applicant, such as a reduction in unit or lot sizes, to achieve a well designed project.

Development Standard A-1.11: The inclusionary program is designed to encourage the payment of in-lieu fees to meet very low and low inclusionary requirements. Projects that meet very low income inclusionary requirements on-site must do so by providing rental units with the exception of projects developed by non-profit developers and restricted to very low income buyers for a minimum of 45 years.

Development Standard A-1.12: To ensure adequate monitoring of price restricted rental housing in an otherwise for-sale project, all price restricted rental units must be managed by a professional property management company and/or have an onsite manager. Per California Code of Regulations title 25 Chapter 1 Section 42 all projects with 16 or more rental units are required to have an on-site manager.

Development Standard A-1.13: Where the donation of land option is chosen in lieu of meeting inclusionary requirements on-site, the donation is subject to approval by CHCD and the criteria outlined in Board of Supervisors Resolution No. 04-339.

In-Lieu Fees *(amended by Resolution No. 04-338, 11/23/04)*

Policy A-2: Fees paid in lieu of providing affordable housing pursuant to the Inclusionary Housing Program shall be deposited in the County's Housing Trust Fund and used for the development and/or rehabilitation of affordable housing and special needs housing within the HMAs from which they are collected.

Development Standard A-2.1: Projects that elect to meet inclusionary requirements by paying fees shall do so as described in the implementation portion of this appendix.

Development Standard A-2.2: The in-lieu fee for the very low and low income categories shall be based on the amount of funds needed by CHCD to subsidize a very low or low income unit in an HMA. The fee shall be updated based on either updated subsidy information or the percent change in the median sale price of condominiums in an HMA over a twelve month period.

Development Standard A-2.3: The in-lieu fee for the moderate and workforce income categories shall be based on the estimated cost to build a housing unit calculated as the median sale price of condominiums in an HMA over a twelve month period less 15% to reflect applicant/developer profit.

Priority for Affordable Housing Projects

Policy A-3: The County shall give high priority and/or provide strategies (e.g., fee waivers or reductions, regulatory incentives) for the development of affordable housing when preparing and amending land use and/or community plans, the zoning ordinance, and growth management plans, particularly with regard to policies and development standards related to the allocation of limited services and resources, including but not limited to water, sewage treatment capacity, and roadway and intersection capacity.

Marketing Periods and Lotteries for New Affordable For-sale Units

Policy A-4: For all new projects that include affordable units, the County or its designee shall compile a list of potentially eligible applicants who are interested in purchasing or renting an affordable unit in that project by conducting a Marketing Period for that project. If there are more applicants for a project than available units upon closure of the Marketing Period, the County or its designee shall conduct a lottery to determine which of the interested parties will be the first to be reviewed for income eligibility to purchase or rent the available affordable units. Marketing Periods and lotteries shall be conducted in a manner consistent with the project's Board of Supervisors approved Agreement to Provide Affordable Housing. Applications to purchase or rent an affordable housing unit shall be screened in a manner consistent with the County's Income Certification Guidelines.

Development Standard A-4.1: To minimize adverse traffic and air quality impacts, the County should give preference to households that include individuals working within a specified geographic area adjacent to the project site when conducting lotteries for affordable housing. Preference decisions shall be compliant with applicable Federal and State Fair Housing Law.

Implementation of the Inclusionary Housing Program

The Inclusionary Housing Program (IHP) applies to housing projects with five or more net new lots or units. To provide flexibility, the IHP allows applicants the option to satisfy its requirements by any combination of building units on-site, paying fees, and/or donating land.

Table A-1 - Inclusionary Requirements by HMA

South Coast and Santa Ynez HMAs	Santa Maria and Lompoc HMAs
<ul style="list-style-type: none"> • 5% very low income units, and • 5% low income units, and • 10% moderate income units, and • 10% workforce income units. 	<ul style="list-style-type: none"> • 5% very low income units, and • 5% low income units, and • 10% moderate income units.

There are many possible developer options:

- Projects may meet inclusionary requirements by providing an equal or greater number of units in a lower income category than would otherwise be required. For example, a developer could build all very low income units to meet low, moderate and workforce requirements;
- Projects receive a density increase of 1:1 for any required moderate and/or workforce units built on-site;
- Developers may donate or dedicate land for affordable housing development in-lieu of IHP requirements. The land must be able to accommodate affordable housing and must be dedicated to an entity willing to work diligently toward that development within a reasonable period of time; and
- Developers may pay fees in-lieu of building affordable units on-site. In-lieu fees are paid at different points in the process depending on the type of project (see table at right). Projects involving property subdivisions pay fees in effect on the date of Final Map clearance; all other projects pay fees in effect at Building Permit issuance. Fees are typically updated annually by the County's Housing and Community Development Department (CHCD). Changes are based on the percent change in condominium sales prices in each HMA.

Table A-2 - In-Lieu Fee Payment Schedule

Type of Project	Timing of Fee Payment
Projects with no map	Building permit
Projects with map and development plan	Map clearance or building permit (with security at map clearance, e.g. bond or letter of credit)
Projects with map only	Map clearance

As the IHP can be a beneficial yet complex program, the County has provided this guide to implementation of the associated policies, requirements, and incentives. The guide covers the following subject areas:

1. Conditions of Approval
2. Recordation and Construction
3. Sales and Rentals
4. Monitoring and Maintenance
5. Affordable Housing Formulas
6. Land Dedication Criteria

1. Conditions of Approval

Every discretionary project approved in the County will have conditions of approval. Some will be mitigation for environmental effects, others will be required to ensure the project is consistent with policy or ordinance requirements, and others will be standard to a permit-type. All affordable projects will have conditions requiring that agreements and covenants be recorded with the property title. These require the property owners to offer affordable sale prices or rental rates and ensure that potential buyers are fully informed of and held accountable to these same requirements. The language of these standard conditions is updated when policies change.

Planners apply the standard conditions for affordable housing projects depending on whether the applicant is providing affordable units onsite, paying in-lieu fees, or donating land. Due to changes in state law and local regulations, conditions for projects with recorded maps differ depending on when the project application was called complete, the affordability level of the project, and whether the units will be for sale or rent. Standard conditions are written for each scenario; for consistency purposes planners choose these applicable conditions from a menu of choices.

In addition to conditions setting affordability, income, and time limits; project conditions can also require that preference be given to the selection of potential occupants of affordable units. Typically, these requirements come in two forms: 1) preference for occupants who work in close proximity to the affordable housing site and 2) preference for the housing of the County's "critical workforce." In order to minimize traffic congestion and air quality degradation, it is advisable to house workers in close proximity to their workplace whenever feasible. A preference for housing the County's "critical workforce" is intended to maintain an adequate stock of teachers, medical professionals, public safety officers, and other professionals who foster and protect the physical and social welfare of the community. This preference could be established as a tiered system that would make units available to a defined preference group first and then other members of the community second, as long as the preference groups specified do not violate Fair Housing Laws. For example, when affordable units become available, the first option could be given to some "critical workforce" employment category, defined by the Board of Supervisors and sufficiently diverse to meet Fair Housing Practices.

2. Recordation and Construction

For most affordable housing projects, applicants must record required agreements and covenants before the project may be constructed. Any affordable housing agreements and covenants required by conditions on projects that include a tract map (TM) or tentative parcel map (TPM) must be recorded with the County Clerk-Recorder before final map recordation. If the project does not include a TM or TPM, as in the case of some multi-family rental housing, these conditions are recorded prior to land use clearance. In either case, this is when the planner carefully reviews the conditions and ensures that all necessary agreements are completed, reviewed by County Counsel, signed by all parties, executed and approved by the Board of Supervisors, and recorded properly.

a. Agreement to Provide Affordable Housing

The *Agreement to Provide Affordable Housing* binds the property owners to affordable housing sale price or rental rate requirements for the time period required by law or County policy at the time the application was called complete (for projects with maps) or at the time the project was approved (for projects without maps). Recorded agreements appear in the title report ensuring that potential buyers are informed and future owners are held to the requirements which include:

- The number of affordable units, their size, their affordability level and the income level at which they must be rented or sold;
- Marketing and lottery requirements; and
- *A Resale Restrictive Covenant and Preemptive Right or a Rental Restrictive Covenant.*

CHCD staff draft the agreement from standard language and the conditions of approval. CHCD then obtains the necessary County approvals and the applicant's signature. All agreements must be reviewed and approved by County Counsel. CHCD then prepares a short letter and schedules the item on the Board's administrative agenda. The Agreement is recorded prior to or concurrent with map recordation for TM or TPM projects, however, once a TM or TPM is recorded, the Development Review planner issuing land use clearance for individual lots must ensure that the *Agreement has been recorded prior to land use clearance on each affordable lot.*

b. Resale Restrictive Covenant and Preemptive Right or Rental Restrictive Covenant

These covenants are appended to the *Agreement to Provide* and recorded at the same time. The recorded covenants then appear in the title report ensuring that potential buyers are informed and current and future owners are held to the requirements within which include:

- Securing the affordability level of the units for a minimum 10, 30, or 45 years. Some covenants ensure that the time period restarts with each resale for a maximum of 60 to 90 years depending on the program under which the housing was approved and the type of housing project. The number of years will have been specified in the conditions of approval.
- Ensuring subsequent sales and rentals of an individual unit may only be to income-qualified households and at prices within the income range of affordability.
- Requiring both a *Notice of Sale* and *Notice of Default* be recorded on the property title so the County may monitor subsequent sales and exercise its first right of refusal when a property is offered for sale.
- Specifying that affordable units must be occupied only by the owner or tenant who has qualified for the affordable home. Subletting any portion of the unit is prohibited except under special circumstances and with the approval of CHCD.

CHCD staff draft the covenant from standard language and obtain the necessary County approvals and the applicant's signature. All covenants must be reviewed and approved by County Counsel before inclusion as an appendix in the *Agreement to Provide*. Covenants are

signed by CHCD, County Counsel, and later by the purchaser of an affordable home. The covenant is recorded along with the deed and other home sale documents.

c. Modifications to Housing Conditions or Agreements

County decision-makers may grant a modification of condition(s) on the sale or rental terms of a recorded *Agreement to Provide Affordable Housing* under the circumstances specified in the *Agreement*. Any modification or amendment must be consistent with the intent of the original conditions of approval to provide affordable housing. CHCD will take any requests for agreement modification to the Board after consulting with Planning & Development to ensure the changes are consistent with policy and with all conditions placed on the project. Planners issuing land use clearance for individual lots must ensure a signed covenant has been recorded. Modifications to conditions must be made by the Board of Supervisors; modifications to agreements must be approved and executed by the Board and must be recorded with the County Clerk-Recorder.

3. Affordable Housing Sales & Rentals

Most of the affordable housing approved by the County is price controlled for a specified period of years through an affordable housing agreement, and sold or rented to individuals in specified income categories (see *Qualifying Buyers and Renters* below). Exceptions may include homeless shelters, dormitories or bunkhouses that are considered “affordable by design.” The procedures detailed below regarding marketing, lottery, and County First Right of Refusal processes are common amongst all of the County’s affordable housing programs, not just the IHP.

a. Price Control Time Period

Price control time periods vary by program, depend on whether the restricted units are rentals or for ownership, and, since affordable housing programs have changed over the years, the time periods vary depending on when the application was deemed complete (for projects with maps) or when the project was approved (for projects without maps). Beginning in 2002, some ownership units under the IHP program became subject to an automatic or “rolling” price and income restriction period. Any affordable unit approved and constructed under this program that is resold before the end of the original time restriction (30 years for older projects and 45 years for newer projects) must be sold to a qualified affordable income household. The 30 or 45-year clock then restarts at the date of the transfer. This “rolling” continues at each resale until a maximum deadline (60 years for older projects and 90 years for newer projects) has passed. See *Table A-3* below. As a result, the County is able to maintain the affordability of its housing stock for significant periods of time. In fact, these affordability standards exceed those outlined by other State affordable housing programs, including State Density Bonus Law.

Table A-3 - Affordable Unit Price Control Time Periods for the Inclusionary Housing Program*

	South Coast HMA	Other HMAs
Prior to May 16, 2002	AHO Projects: 30 years, restarting for up to 60 years on resale for ownership units Other Projects: 30 years-- with shared equity for ownership units	AHO Projects: 30 years, restarting for up to 60 years on resale for ownership units Other Projects: 30 years for rental units; 10 year shared equity for ownership units
May 16, 2002 – April 27, 2004	30 years; restarting for up to 60 years on resale for ownership units	AHO Projects: 30 years, restarting for up to 60 years on resale for ownership units Other Projects: 30 years-- with shared equity for ownership units
April 28, 2004 or after	45 years; restarting for up to 90 years on resale for ownership units	

*Projects with maps are subject to the terms in effect at the time applications are complete. Projects without maps are subject to the terms in effect at the time the project receives final approval.

b. Pricing Affordable Housing

The County sets maximum allowable sale and rental prices for affordable units based on a number of factors including Area Median Income (AMI), unit size, and target income. AMI is updated annually by State HCD. Sale and rental prices are based on the percent of AMI that a hypothetical household in each income category can afford. To account for differences in unit size, CHCD uses a **unit size adjustment factor** that considers the number of bedrooms in a unit. A **target income** is an established percent of the AMI that is within the range of each income category. Maximum allowable sale prices and rents vary between the State Density Bonus Program and Inclusionary Housing Program based on different target incomes for some income categories (e.g. the low income target is 60 percent of AMI under the SBDP; 75 percent of AMI for IHP and other County programs).

The **maximum sale price** in each category must be affordable to a hypothetical buyer in that income category. The price is set such that after a five percent down payment the buyer's monthly payments for mortgage, taxes, and insurance do not exceed 30 percent of the buyer's **target income**. The formula includes assumptions for interest rate, property taxes, and insurance. These variables, as well as, the AMI are updated annually based on market changes. CHCD updates assumptions annually following State HCD's update of the AMI (typically in February of each year) or as necessary.³

³ The County will use an interest rate equal to the average 10-year treasury constant maturity rate over the most recent 24 months, plus 200 basis points (2.0 percent). Note: CHCD also adjusts the price for projects that include Homeowners Association (HOA) fees, which vary widely from project to project.

The **affordable monthly rent formula** is simpler because rents are not impacted by factors like interest rates. The formula for maximum rent assumes that the landlord pays all utilities. If the tenant is required to pay some or all of the utilities, the maximum rents are reduced in accordance with the County Housing Authority utility allowance for Section 8 housing.

c. Marketing Affordable Units

The *Agreement to Provide Affordable Housing* spells out the marketing and lottery requirements designed to ensure the fair distribution of the affordable units. Under the *Agreement*, developers are required to prepare Marketing and Lottery Plans (MLP); however, in practice, CHCD has been preparing the plans for the developers as part of the County's marketing incentives. CHCD prepares an MLP designed to provide prospective buyers or renters with accurate and complete information. It includes newspaper ad copy (sample at right) and developer & prospective buyer information packets.

New Homes

Enter a Lottery for a Chance to Purchase a Home

If you qualify, your chance to own an affordable home in Santa Barbara County may be here. New Home Developer and Santa Barbara County announce two new affordable, attached homes priced at **\$194,100**. Applications will be available beginning October 15, 2004 at the New Home's sales office located at 222 New Home Drive.

New Homes are approximately 1,265 sq. feet, have three bedrooms, two bathrooms, and an attached one-car garage. These homes are subject to the County's Resale Restrictive Covenant for 45 years. Please review the Buyer Information Packet for Resale Restrictive Covenant details. Owner occupancy and rental restrictions apply.

Who is Eligible?

Residents of Santa Barbara County, or those who commute to work in Santa Barbara County, and meet the income eligibility requirements below may qualify. Applicants must be first-time homebuyers. Interested households with 3-7 people and whose income is less than the maximum incomes shown below are encouraged to apply. Potential buyers of these affordable homes will be chosen by a lottery of applicants subject to income certification.

Number of People in Household	Maximum Allowable Income	Maximum Allowable Assets
Current figures would be included		

How Can I Get More Information?

Beginning Oct. 15th, Buyer Information Packets and County Income Certification Applications may be obtained between 8am-5pm at Santa Barbara County's Housing and Community Development offices in Santa Barbara at 105 E. Anapamu Street; and in Santa Maria at 511 East Lakeside Parkway. Applications are also available on-line at www.Countyofsb.org/housing/docs.asp.

How Can I Apply?

Completed applications must be submitted to New Home's sales office in Santa Barbara County **no later than 5:00pm on Deadline, 2005**.

Santa Barbara County and New Home Developer are committed to providing equal housing opportunity for all people regardless of race, color, gender, religion, national origin, familial status, or disability. If you believe you have been a victim of discrimination, contact the U.S. Dept. of HUD's Fair Housing Hotline (800-669-9777).



These describe the affordability terms of the project and individual affordable units, income certification and lottery procedures, current income & price guidelines, and other information prospective buyers or renters need to determine their rights and responsibilities and to make informed decisions. The *Agreement to Provide Affordable Housing* includes sample Marketing and Lottery Plans as exhibits and specifies that the County will complete income certifications and conduct the lottery. The Board of Supervisors specifies tenant selection criteria for affordable rental projects at the time of project approval. These criteria are included in the MLP for rental projects.

d. Lotteries

To be eligible for most affordable housing in Santa Barbara County, applicants must meet state income eligibility standards and County standards for assets per household; they must also either work or reside in Santa Barbara County. Applicants intending to purchase a for-sale affordable unit must not have owned a home for the past three years.

New affordable rental and for-sale housing is distributed by a lottery the first time it is available. Interested applicants fill out the County's application and submit the following information as well as supporting financial information to CHCD:

- Proof of residency or employment in SB County;
- Three years of tax returns including W-2's; and
- Statements from all open bank accounts.

CHCD ensures that the applications are complete; applicants who have submitted complete applications with no discrepancies are eligible for the lottery. CHCD posts a list of those eligible at specified County locations for 10 days prior to the lottery. Prospective buyers or renters who are not on the list may inquire and complete their applications within this time period. After 10 days, CHCD conducts the lottery using random number selection in EXCEL. A witness from the County Auditor-Controller's office is present and signs a declaration that the lottery was conducted according to procedures and was completely random. The County posts the lottery results for 10 days and notifies the number of buyers or renters for whom units are available.

e. Qualifying Buyers & Renters

As previously mentioned, eligibility for affordable housing is based on household size and income level as a percentage of Area Median Income (AMI). The Federal government recalculates AMI annually, and the County adjusts rental and sales prices annually to reflect these changes. The County uses an **affordable income formula** to determine eligibility for affordable housing for each income category, this formula is provided later in the appendix.

f. Income and Eligibility Certification

CHCD begins income certification procedures for applicants who are at the top of the lottery list. In addition to the items required to qualify for the lottery, applicants must:

- Meet both maximum income limits for affordability and minimum income limits (twice the annual maintenance cost including mortgage or rent, insurances, taxes, and Homeowners Association dues if applicable);
- Pre-qualify for a home loan through a certified lender and have sufficient funds to meet down payment requirements (for-sale units);
- Identify gifts and certify that they do not exceed 20% of the down payment amount;
- Prove that total household assets do not exceed one-half of the purchase price (or estimated purchase price for rentals);
- Prove they have not owned a home for the previous three years (for-sale) or for rentals, do not currently own a home in California;
- Meet household size requirements for the available unit(s); and
- Prove U.S. citizenship or legal residency.

To ensure that the applicant is eligible for the affordable unit, CHCD compares the income certification submitted to the County with tax forms and loan applications and investigates any anomalies. CHCD verifies income with the applicant’s employer(s). Applicants may be removed from the lottery list if their application contains false information or if they do not meet any one of the criteria above. When a name is removed from the list, CHCD contacts the next eligible applicant and begins income certification procedures on their application.

Applicants who are eligible may proceed with loan approval through a Federally insured lending institution. CHCD compares the loan application information with the original income certification application as a final check against income fraud. If discrepancies are found, CHCD removes the applicant from the lottery list.

The County must allocate the limited supply of affordable housing efficiently. The following are the County’s minimum **household size requirements** per bedroom:

Household Size (No. of persons)	Number of Bedrooms in Unit
1	0
1-3	1
2-5	2
3-7	3
4-9	4
5-11	5

A single-person family household selected through a lottery could only qualify for a studio or one-bedroom unit, and a two-person family household could only qualify for a one or two-bedroom unit. The maximum occupancy limit to purchase a home is equal to twice the number of bedrooms in the home plus one person. For example, the maximum allowable for a two bedroom home is five persons: $(2 \times 2) + 1 = 5$. This procedure is intended to maximize the benefits of the affordable housing stock by not allowing small households (such as 1 person) occupy large affordable units (such as 4 bedroom houses).

4. Monitoring and Maintenance

For affordable units created under the Inclusionary Housing Program, the County requires that the developer record a covenant outlining resale or rental restrictions on each property title. When they submit an application for affordable housing to the County, and again during title search, prospective buyers and their lenders are informed of all of the restrictions in the covenant. Buyers sign an assumption agreement which informs them of the covenant on the property.

The covenant requires owners of a unit to occupy that unit on a full time basis and not rent out any portion of the unit. "Full time" is defined as living in the unit at least 10 months out of the year. The covenant also limits the owners' ability to offer their homes for rent and establishes the resale conditions for the unit. The covenant further specifies the enforcement terms for violations. These vary by project due to modifications over time.

a. Owner Occupancy

Once a year, CHCD sends a notice to the owner(s) of each affordable unit requesting an Occupancy Status Report. The letters, sent via certified mail, include "Do Not Forward" and "Owner Signature Only" notices; the owner will not receive the letter if he or she is not living in the affordable unit and is not able to provide a signature to the postal worker. The Occupancy Status Report advises homeowners that their responses must be truthful and accurate to the best of their knowledge under penalty of perjury. When the owners return the Occupancy Status Report, the County compares the certified mail receipt signatures against the signatures from the original application on file with the County. The County keeps the new signatures on file as well to compare with subsequent mailings.

b. Investigations

If CHCD receives no response within 10 days of the Owner Status Report's delivery, if the validity of the signatures on the returned documents is in question, or if the County is notified of an alleged violation of the owner occupancy requirement the County opens an investigation. Upon initiation of this investigation, CHCD notifies the owner via another certified letter that the County may take one or more of the following steps initially:

- Visit the unit at random times of the day to determine occupancy;
- Solicit testimony from neighbors regarding who is occupying the owner's unit; and/or
- Require that the owner submit copies of most recent paycheck stubs (or other verification from employer) demonstrating the owner's current place of employment and any other information CHCD reasonably requires.

If the above steps do not reveal the occupancy status, the County may seek entry into the unit and, if not granted, may seek an inspection warrant. If warranted after further investigation, CHCD, with County Counsel support, may issue notices of default to owners of affordable units found in violation of the covenant. The County's enforcement abilities include, but are not limited to, financial penalties for rents collected in excess of the maximum allowable and a requirement that the home be sold by the owner not in compliance. Specific enforcement terms vary by covenant.

c. Hardships

Hardships, defined in the covenant, may enable an owner to rent their unit while attempting to sell it. Owners must apply to CHCD for a "hardship exemption." These may be granted by CHCD when one or more of the specific circumstances outlined in the covenant result in an economic hardship (i.e. staying in the unit would result in a substantial and irrevocable loss).

CHCD must make their determination within 30 days of receiving a request. Hardship circumstances include:

- Long-term illness or injury of owner or a member of the immediate family;
- The death of a member of the immediate family;
- A job transfer or loss of job;
- Insurance will not compensate for the loss; or
- Liquidation of the owner's assets would create a "severe financial hardship" as well.

If CHCD grants the hardship, the owner may rent the unit at an affordable rate. The homeowner must disclose to CHCD the name of the tenant, the amount of rent collected, and submit a copy of a separate written lease for each tenant. The owner of the unit must keep the unit on the market for sale and demonstrate to CHCD a good faith effort to sell the unit.

d. Foreclosure "Right of First Refusal" Notification

Under the Resale Restrictive Covenant, the County has an "Option to Purchase" any affordable property that goes up for sale or falls into foreclosure. As a part of the covenant, a *Request for Notice of Default* and a *Request for Notice of Sale* are recorded with the title and the original deed for all affordable units. These insure the County will be notified by the title company in the event of a pending sale or default and subsequent foreclosure. The County then has 30 days (15 days in some older covenants) to consider acting upon the *Option to Purchase* provision of the covenant. Where feasible, the County will acquire and resell foreclosed units subject to new Resale Restrictive Covenants.

e. Resale Procedures

There are currently two types of for-sale affordable housing agreements in the County. Most are income and price restricted, where a purchaser must qualify for the housing and is then restricted to selling the home to other qualifying individuals for a price determined by the County using the County's formulae. These restrictions apply for either 30 or 45 years depending on when the project was approved. The other is an equity share, where, if the original owner sells the unit within an established period of time (usually 10 or 30 years), the owner may sell at market rates, but must share the profit with the County. These profits go to the County's Housing Trust Fund to purchase or build additional affordable housing.

The covenant recorded on the title outlines the terms under which an affordable unit may be sold. The owner must notify CHCD in writing of their intent to sell an affordable unit prior to putting their unit on the market. The County has a safeguard in the event an owner fails to notify the County of their intent to sell. The County records a *Notice of Sale* on the deed of all affordable units, which ensures that the title company will notify the County of any pending sale. The County has "*Right of First Refusal*" on any affordable unit sold in the County. The County has 30 days (15 days in some older covenants) to respond once notified by the owner of their intent to sell. If CHCD does not exercise its *Right of First Refusal*, CHCD sends the owner an information packet that includes the current maximum sales price and income certification applications for prospective buyers.

The seller may sell the unit “by owner” or use any realtor they choose. Once a homeowner finds a potential buyer, the County completes an income certification for the new buyer.

If an owner attempts to sell a unit outside of the affordable housing program, a routine title search will produce the covenant, which alerts the prospective buyer and the lender of the sales restrictions. If, despite all of the precautions, a seller is able to sell the property for more than the maximum allowed, or attempts to sell the property without first notifying the County, the County will be notified of the sale by the escrow company. If the seller has sold the unit for more than the maximum allowed sales price, the seller will owe the County twice the difference between the maximum allowed sales price and the price for which they sold the home. If the seller sold to an unqualified buyer, the County would assess the seller three times the difference between the maximum income allowed and the buyer’s actual income at the time of sale.

f. Monitoring and Filling Rentals

CHCD conducts income certification and checks other qualifications for initial occupancy of new (or converted) affordable rental units. Once the units are occupied, the owner is responsible for recertifying occupant income annually. Long term tenants may achieve increases in income (from raises, promotions, etc.) which make them no longer qualified to occupy an affordable unit. In order to avoid unnecessary displacement of this tenant household, the owner shall rent the next available unit in the subject property to a qualifying household at no more than the **Maximum Monthly Rent** as provided for in the *Agreement to Provide and Rental Restrictive Covenant*. The new unit becomes a restricted unit under the *Covenant* and the unit occupied by household whose income exceeded the threshold is no longer considered a restricted unit. The owner may then increase the rent on the original unit to market levels. Owners of restricted affordable rental housing must file a report with CHCD by March 1st of each year showing compliance with these provisions of the *Agreement to Provide and Rental Restrictive Covenant* for the preceding calendar year.

Price-restricted rentals become available both when an eligible household moves to another location and when an existing household’s earnings increase, so that they no longer qualify for the income category. When a price-restricted rental unit becomes available, the unit’s property manager runs an advertisement in the local paper announcing the vacancy. Persons who call regarding the vacancy are given an Income Certification application. The County reviews and certifies prospective renters. The first person who qualifies has the opportunity to rent the unit.

5. Affordable Housing Formulas

The **affordable sale price** assumes a standard 30 year fixed interest rate mortgage and is calculated using the following formulas:

Table A-5 - Affordable Sale Price Formula

Affordable Mortgage Amount + 5% Down Payment

Round to the nearest hundred dollars.

Formula B-1

where:

Affordable Mortgage Amount Formula

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

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

Formula B-2

where:

Affordable Monthly Mortgage Payment Formula

(30% \times (Target Annual Income $\div 12 \text{ months}$)) - (Insurance Payment + Property Tax Payment + HOA Dues)

Note: All payments are assumed to be monthly.

Formula B-3

The **affordable monthly rent formula** assumes that the landlord pays all utilities. If the tenant is required to pay some or all of the utilities, the maximum rents are reduced in accordance with the County Housing Authority utility allowance for Section 8 housing which is updated annually. If the Section 8 Existing Housing Rental Assistance Program or other similar rental subsidy program is used, maximum monthly rent is equal to the Fair Market Rent levels established by HUD or by the specific subsidy program.

Table A-6 - Affordable Monthly Rent Formula

30% x Affordability Target x Area Median Income x Unit Size Adjustment Factor (see below) ÷ 12 months. Round to the nearest ten dollars.

Formula B-4

Target incomes are used when calculating affordable rents and sale prices. Target incomes are an established percent of the Area Median Income (AMI) that is within the range of each income category. These targets vary by affordable housing program as follows:

Table A-7 - Affordability Ranges and Targets (as percent of AMI)

Income Category	Income Ranges	Inclusionary Program
Very Low	50% or less	50%
Low	51–80%	75%
Moderate	81–120%	110%
Workforce	121–200%	160%

Unit size adjustment factors are used when calculating affordable rents and sale prices. Unit size adjustment factors are based on the number of bedrooms in a unit as follows:

Table A-8 - Unit Size Adjustment Factors

Unit Size (No. of bedrooms)	Rental Unit Size Adjustment Factor	For Sale Unit Size Adjustment Factor
Studio	0.6	0.7
1	0.75	0.8
2	0.9	0.9
3	1.0625	1.0
4 or more	1.2	1.0625

The **maximum affordable income formula** used for purposes of determining eligibility for affordable housing for each income category and household size is:

Table A-9 - Affordable Income Formula

$$\text{Area Median Income (AMI)} \times \text{Percent of AMI (for the relevant income category)} \\ \times \text{Household Size Adjustment Factor}$$

The median income is adjusted for **household size** when determining eligibility for affordable housing. The household size adjustment factors, established by the Federal Department of Housing and Urban Development (HUD) and State HCD, are as follows:

Table A-10 - Household Size Adjustment Factors

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

6. Land Dedication Criteria

The following criteria guide the dedication of land for affordable housing development which may be used to meet Inclusionary Housing Program requirements. The criteria requires the developer to ensure that the land is able to accommodate affordable housing and that it is dedicated to an entity willing to work diligently toward that development within a reasonable period of time.

1. The land must be donated to the County Housing Authority or a County-approved non-profit or for-profit developer that is willing to work diligently toward the development of affordable housing on the site.
2. Adequate documentation shall be provided, which indicates that the land to be donated is capable of accommodating the number of inclusionary units that would otherwise be required to be built on the original project site. This analysis shall be consistent with existing Land Use designation and Zone District base density. A development agreement can provide flexibility with regard to the Zone District requirements.

3. Environmental review for the project that includes analysis of units to be transferred to the donated site at a level of detail based on information known at the time.
4. The developer(s) must provide evidence that no hazardous materials on the land exist that would preclude residential development.
5. Units built on the donated site that are in addition to the units transferred from the original site shall be subject to Inclusionary Housing Program requirements.
6. The donated land must be in the same HMA as the proposed development.
7. Developers may pool land to meet inclusionary requirements for multiple developments subject to County approval.
8. The County shall hold a covenant on the land that includes a provision granting the County a right to purchase the property for \$1.00 if:
 - a) the property has failed to be developed with affordable housing;
 - b) an application for development of affordable housing on the site has not been submitted or a submitted application has not remained active; or
 - c) the developer/property owner is not working diligently toward development of the transferred units within a specified period of time.

The time limit shall be determined on a case-by-case basis but shall not exceed five (5) years. The County may approve one extension of one year if the developer has been and continues to demonstrate reasonable progress, as described above.

9. If the land is purchased by the County as described above, the County shall then donate the land to another County-approved non-profit or for-profit developer that is willing to accept it and work diligently toward the development of affordable housing on the site.
10. The land donation must also comply with any other County established criteria regarding land given to the County.