

DRAFT (1/26/2005)
DENSITY BONUS AFFORDABLE HOUSING
GUIDELINES AND PROCEDURES MANUAL

Regulations pertaining to the City of San Diego's Affordable Housing Density Bonus Program ("Program") are incorporated in San Diego Municipal Code Chapter 14, Article 3, Division 7 and San Diego Municipal Code Chapter 14, Article 1, Division 3, Subsection 141.0310 (Senior Housing). State of California Density Bonus Legislation can be found in California Government Code Sections 65915-65918

The purpose of the Density Bonus Affordable Housing Guidelines and Procedures Manual ("Procedures Manual") is to provide additional detail for the administration of the Program.

Density Bonus Application

The President and Chief Executive Officer of the Housing Commission is charged with the duty of entering into agreements with applicants which allow for the density bonus in projects that comply with the requirements of state law and San Diego Municipal Code. Applicants wanting to use the Density Bonus Program should complete and submit a Density Bonus Application to the San Diego Housing Commission. (Call 619-578-7582 to request a copy of the application).

Housing Commission staff will work with City of San Diego Development Services staff during the review and approval stages of the project. After the project receives final approval by the City of San Diego, and prior to pulling building permits, the Housing Commission will prepare a Density Bonus Agreement and related documents for signature and recordation.

Applicants constructing affordable units pursuant to the requirements of the Program may be eligible for expedited permit processing through the Affordable/Infill Housing and Sustainable Buildings Expedite Program as implemented by Council Policy 600-27 (See Information Bulletin 538).

Density Bonus Agreement and Restrictions

- A. Developers of residential "housing developments" with at least five dwelling units who agree to comply with the requirements of the Density Bonus Program shall be granted the following:
1. A density bonus, as provided herein, above the underlying zone designation on each housing development, provided, however, that in no event shall any density bonus in excess of 35 percent be granted with respect to any project.
 2. One, two, or three development incentives or concessions, depending on the level of affordability offered, if requested by the applicant in order to provide for affordable housing costs.

3. Upon the request of the developer, the city shall allow the following vehicular parking ratio, inclusive of handicapped and guest parking:
 1. 0 – 1 bedroom: 1 onsite parking space
 2. 2 – 3 bedrooms: 2 onsite parking spaces
 3. 4 or more bedrooms: 2 ½ onsite parking spaces.

If the total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number. A development may provide “onsite parking” through tandem parking or uncovered parking, but not through onstreet parking.

“Housing Development” means the new construction of one or more groups of projects for residential units in the City of San Diego. It also includes either a project to substantially rehabilitate and convert an existing commercial building to residential use or the substantial rehabilitation of an existing multifamily dwelling unit as defined in California Government Code Section 65863.4(d), where the result of the rehabilitation would be a net increase in available residential units. Substantial rehabilitation will be based upon a rehabilitation cost per-unit ratio. Currently, to qualify as substantial rehabilitation, a minimum of \$15,000 per unit must be proposed. All units proposed for rehabilitation must be inspected by the Housing Commission before the rehabilitation work is initiated and again upon completion.

- B. The City of San Diego will grant a 20 percent density bonus and incentives or concessions, as set forth herein, when the applicant agrees to construct at least any one of the following:
 1. Provide 10 percent of the total dwelling units of a housing development for lower income households (households with income at or below 80 percent of area median income as adjusted for household size) at rents not to exceed 30 percent of 60 percent of area median income as adjusted for assumed household size, or
 2. Provide 5 percent of the total dwelling units of a housing development for very low-income households (households with income at or below 50 percent of area median income as adjusted for household size) at rents not to exceed 30 percent of 50 percent of area median income as adjusted for assumed household size, or
 3. Provide a senior housing development as defined in Sections 51.3 and 51.12 of the California Civil Code. “Senior” means a person 62 years of age or older, or 55 years of age or older if in a senior housing development. “Senior housing development” means a residential development developed, substantially rehabilitated, or substantially renovated, for seniors that has at least 35 dwelling units.
 4. Provide 10 percent of the total dwelling units in a condominium project or planned development for persons or families of moderate income (income at or below 120 percent of area median income as adjusted for household size) at a sales price which results in

housing costs, as set forth herein, that not to exceed 35 percent of 110 percent of area median income as adjusted for assumed household size, and utilizing prevailing Housing Commission underwriting standards.

Developers of condominiums or planned developments are limited to the use of option B.4 above; they may not meet the density bonus affordability requirements by offering rental units, unless they are developing mixed-use developments containing both for-sale condominium units and rental units. In this circumstance, affordable density bonus rental and for-sale units must be provided in proportion to the total development, subject to the approval of the Housing Commission's President and Chief Executive Officer, in her sole reasonable discretion.

- C. The City of San Diego will grant a 15 percent density bonus, as set forth herein, when the applicant agrees to donate and transfer land, no later than the date of approval of the final map, parcel map or residential development permit application, that meets all of the following requirements:
1. The developable acreage and zoning classification of the land being transferred are sufficient to permit construction of units affordable to very low income households (households with income at or below 50 percent of area median income as adjusted for household size) in an amount not less than 10 percent of the number of residential units of the proposed development; and
 2. The transferred land is at least 1 acre in size or of sufficient size to permit development of at least 40 units, has the appropriate general plan designation, is appropriately zoned for development as affordable housing, and is or will be served by adequate public facilities and infrastructure. The land shall have appropriate zoning and development standards to make the development of the affordable units feasible. No later than the date of approval of the final map, parcel map, or of the residential development permit, the transferred land shall have all of the permits and approvals, other than building permits, necessary for the development of the very low income housing units on the transferred land, except that the City of San Diego may subject the proposed development to subsequent design review to the extent authorized by Government Code Section 65583.2(i) if the design is not reviewed by the City of San Diego prior to the time of transfer; and
 3. The transferred land and the affordable units shall be subject to a deed restriction ensuring continued affordability of the units in accordance with Sections 143.0720 (b)(4) or 143.0720 (b) (5) and shall be recorded on the property at the time of dedication; and
 4. The land is transferred to the Housing Commission or to a housing developer approved by the Housing Commission in its sole and reasonable discretion. The Housing Commission may require the applicant to identify and transfer the land to the developer; and
 5. The transferred land shall be within the boundary of the proposed development or, if the City of San Diego agrees, within one-quarter mile of the boundary of the proposed development.

For each 1 percent increase above the minimum 10 percent land donation described in (C)(1) above, the density bonus shall be increased by 1 percent, up to a maximum of 35 percent. This increase shall be in addition to an increase in density bonus mandated by Section 143.0730 up to a maximum combined density increase of 35 percent.

- D. The calculation of the number of units restricted for moderate, low or very low-income is based upon the number of units within any project prior to the density bonus. Any fraction derived in this calculation shall be increased to the next whole number.
- E. Developer shall agree to execute an “Agreement Authorizing Affordable Housing Density Bonus and Imposing Covenants and Restrictions On Real Property” as required by the President and Chief Executive Officer. The “Agreement” shall enumerate the restrictions placed on the dwelling units reserved for low or very low-income households. The restrictions on rental units shall include the following:
 - 1. Affordable unit(s) shall not be rented to a tenant whose income has not been certified in accordance with the income criteria set for low and very low-income households as adjusted for household size.
 - 2. Tenant certification shall be performed by the Developer and submitted to the Housing Commission’s Occupancy Monitoring staff for approval, in the sole reasonable discretion of the Housing Commission, prior to tenant occupancy. No Affordable unit may be rented to a prospective tenant or occupied by any person unless and until the Housing Commission has determined that the prospective tenant or occupant has satisfied the eligibility requirements.
 - 3. Tenant certification shall be performed annually to assure continued eligibility. In the event any occupant of an affordable unit, ceases to be eligible to occupy such affordable unit, the owner will have 60 days to either cause the affordable unit to be occupied by an eligible tenant or to designate a replacement unit acceptable to the Housing Commission, which replacement unit shall be rent and occupancy restricted as set forth herein. If neither action is taken within such 60 day period, the Housing Commission will impose a monthly in-lieu fee on the owner until a replacement unit is provided for an eligible household.
 - 4. Developer shall rent affordable unit(s) only on a month-to-month basis.
 - 5. Affordable unit(s) shall not be occupied by the Developer/Owner or any person related to or affiliated with the Developer/Owner, or the resident manager or maintenance personnel.
 - 6. Affordable unit(s) shall not be occupied exclusively by full-time students, unless such persons are married and eligible to file a joint federal income tax return. In addition, a student dependent will not qualify unless the taxpayer (upon whom the student is dependent upon) resides in the same unit.

7. Affordable unit(s) shall not be occupied by households who own improved real property.
 8. To maximize the availability of affordable housing, the affordable density bonus unit(s) shall not be occupied by households receiving rental assistance from HUD under Section 8 of the Housing Act of 1937, the Voucher Program, or any successor program. Section 8 households are not precluded from renting available market-rate units.
 9. The Agreement shall ensure the continued affordability of all designated Affordable units(s) for at least 30 years from the issuance of a certificate of occupancy.
 10. Developer shall only sell the density bonus property to parties who execute and deliver to the Housing Commission an express written assumption of the terms of the Agreement in a form and format acceptable to and approved by the Housing Commission in its sole reasonable discretion. The Developer shall reimburse the Housing Commission for the costs and expenses of Housing Commission staff and legal expenses incurred to prepare and execute said Assumption Agreement. Such reimbursement shall be paid by the Developer to the Housing Commission prior to the execution of the Assumption Agreement and prior to any such transfer of the property.
- F. Developer shall agree to execute an “Agreement Authorizing Affordable Housing Density Bonus and Agreement to Restrict the Sale of Affordable Units” as required by the President and Chief Executive Officer. The “Agreement” shall enumerate the restrictions placed on the dwelling units required to initially be sold to moderate-income households. The restrictions on For-Sale units shall include the following:
1. The affordability restrictions for the moderate income condominium or planned development units shall be comprised of both initial occupancy restrictions on the purchasers as well as initial restricted sales prices.
 2. The moderate income condominium or planned development units shall initially be sold to and occupied by persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code (at the time of this writing, income at or below 120 percent of area median income as adjusted for household size).
 3. The moderate income condominium or planned development units initial sales price shall be restricted to the maximum sales price, as established by the Housing Commission in its sole reasonable discretion, which will generate a monthly “housing cost” as defined in Section 50052.5 of the Health and Safety Code, which does not exceed 35 percent of 110 percent of AMI, assuming a down payment of five percent (5%) of the restricted sales price and utilizing the standard underwriting criteria of the Housing Commission as of the date of the initial sale of, and assuming prevailing 30-year fixed interest rates for, the moderate income restricted density bonus unit(s). Housing Costs shall include mortgage principal and interest, taxes, insurance, HOA fees and assessments.
 4. The moderate income condominium or planned development units shall be owner occupied at all times prior to the first resale by the moderate income household.

5. Prior to or concurrently with the closing of the initial sale by the Developer to a moderate income household, of a moderate income condominium or planned development unit, the developer shall cause the moderate income purchaser to execute and deliver to the Housing Commission a promissory note, secured by a deed of trust, in favor of the Housing Commission, in an original principal amount equal to the difference between the initial fair market sales price at the time of the initial sale minus the initial moderate income restricted sales price. It being the intent of this provision to perpetuate housing which is affordable to moderate income households through the continued financing, by the Housing Commission, of moderate income household home ownership and to prevent a windfall profit to the initial moderate income household purchasers. Such promissory note shall be in a form and format acceptable to the Housing Commission in its sole reasonable discretion.
6. Upon the first “resale” of the moderate income restricted density bonus unit by the initial moderate income purchaser, the Housing Commission shall be entitled to its share of appreciation and to the payoff of the Housing Commission’s promissory note in its entirety and the seller of the density bonus unit shall retain the value of any improvements, the down payment, and the seller’s proportionate share of appreciation. The Housing Commission shall recapture its proportionate share of appreciation, as defined below, which shall then be used within three years for any of the purposes described in Health and Safety Code Section 33334.2(e) that promote homeownership. “Resale” for the purposes shall include, but is not limited to, the sale, transfer, conveyance, hypothecation, pledging, refinancing with cash out (refinancing without cash out to reduce interest rates shall not be deemed a resale), further encumbrance, leasing of the property, failure to occupy the property as a primary place of residence, or other disposition of the moderate income restricted density bonus unit, or any portion thereof, without the express, advance written consent of the Housing Commission. Fair market values and restricted market values, if and when required to calculate and determine shares of appreciation, shall be determined by state certified real estate appraisals selected by the Housing Commission, in its sole reasonable discretion.
7. The Housing Commission’s proportionate share of appreciation shall be equal to the percentage by which the initial sale price of the moderate income restricted density bonus unit to the moderate-income household was less than the fair market value of the unit at the time of initial sale.
8. Appreciation shall mean the amount of increase, if any, in the fair market unrestricted value of the moderate income restricted density bonus unit on the date of the resale of such unit, less the initial unrestricted fair market value of the density bonus unit at the time of the initial sale, less the value of any San Diego Housing Commission approved permanent improvements to the unit.
9. Value of permanent improvements shall mean the actual written documented cost of such permanent improvements, but only when the owner of the density bonus unit has given advance written notice of the improvements to the Housing Commission of said owner’s

intention of making a permanent improvement in the unit and, provided, further, that such permanent improvement(s) have been approved by the San Diego Housing Commission, in its sole reasonable discretion, in advance of such improvement.

Sample Resale Calculation

Assume the initial moderate income household purchases the affordable condominium or planned development unit for \$150,000 and at the time of such purchase the unrestricted fair market value of the condominium or planned development unit is \$200,000. Prior to purchasing the unit the moderate income household will execute a promissory note and deed of trust in favor of the Housing Commission in the amount of \$50,000 (\$200,000 FMV minus the \$150,000 restricted sales price). The Housing Commission's share of the appreciation is 25 percent (\$50,000/\$200,000).

Assume the initial moderate income household incurs \$20,000 in costs to permanently improve the condominium or planned development unit, which costs were approved in writing by the Housing Commission in advance of the initial moderate income household incurring such costs.

The initial moderate income household later resells the house for its then fair market value of \$320,000. In such event, the appreciation is \$100,000 (the \$320,000 fair market selling price of the unit, minus the \$200,000 initial unrestricted fair market value of the unit, minus \$20,000 in pre-approved permanent improvements).

Upon the first resale of the unit, the Housing Commission will receive \$75,000 from the sale proceeds (the \$50,000 note payoff, plus the Housing Commission's \$25,000 share of the appreciation (.25 x \$100,000)). The initial moderate income household will receive \$95,000 from the sale proceeds (the \$20,000 in pre-approved permanent improvements, plus the initial moderate income household's \$75,000 share of the appreciation (\$100,000 minus the \$25,000 paid to the Housing Commission)).

Level of Affordability and Development Incentives

Low-Income and Very Low-Income Rental Units

Program requirements can be fulfilled through the provision of rental housing units having rents affordable at 30 percent of 60 percent of AMI to Low-Income Households (incomes at or below 80 percent of AMI) or having rents affordable at 30 percent of 50 percent AMI to Very Low-Income Households (incomes at or below 50 percent of AMI).

The amount of the density bonus will be based on the percentage of affordable units provided.

- For Very Low-Income units, the City will grant a 20 percent density bonus for developments with 5 percent of the units set-aside for very low-income households. For each 1 percent increase above 5 percent in the percentage of affordable units affordable to very-low income households, the density bonus shall be increased by 2.5 percentage points, up to a maximum of 35 percent density bonus.

- For Low-Income units, the City will grant a 20 percent density bonus for developments with 10 percent of the units set-aside for low-income households. For each 1 percent increase above 10 percent in the percentage of affordable units affordable to low income households, the density bonus shall be increased by 1.5 percentage points, up to a maximum of 35 percent density bonus.

The number of development incentives granted will be based on the percentage of affordable units provided.

Project Serves Very Low-Income Households (50% AMI)			Project Serves Low Income Households (60% AMI)		
% Affordable Units	% Density Increase	Number of Incentives	% Affordable	% Density Increase	Number of Incentives
5	20	1	10	20	1
6	22.5	1	11	21.5	1
7	25	1	12	23	1
8	27.5	1	13	24.5	1
9	30	1	14	26	1
10	32.5	2	15	27.5	1
11	35	2	16	29	1
12-14	35	2	17	30.5	1
≥15	35	3	18	32	1
			19	33.5	1
			20	35	2
			21-29	35	2
			≥30	35	3

If the number of affordable units or density bonus units is other than a whole number, the number shall be rounded up to the next whole number.

Moderate-Income For-Sale Units

Program requirements can be fulfilled through the provision of for-sale condominium or planned development housing units for moderate-income households with incomes at or below 120 percent of AMI. Sales price restrictions shall be established based on housing costs that do not exceed 35 percent of 110 percent of area median income adjusted for family size. Housing Costs include mortgage principal and interest, taxes, insurance, HOA fees and assessments.

The amount of the density bonus will be based on the percentage of affordable units provided.

- For Moderate-Income units, the City will grant a 20 percent density bonus for developments with 10 percent of the units set-aside for moderate-income households. For each 1 percent increase above 10 percent in the percentage of affordable units affordable to moderate-

income households, the density bonus shall increased by 1 percentage point, up to a maximum of 35 percent density bonus.

The number of development incentives granted will be based on the percentage of affordable units provided.

Project Serves Moderate Income Households (120% AMI)		
% Affordable Units	% Density Increase	Number of Incentives
10	20	1
11	21	1
12	22	1
13	23	1
14	24	1
15	25	1
16	26	1
17	27	1
18	28	1
19	29	1
20	30	2
21	31	2
22	32	2
23	33	2
24	34	2
25	35	2
26-29	35	2
30+	35	3

If the number of affordable units or density bonus units is other than a whole number, the number shall be rounded up to the next whole number.

Development Incentives

The City will grant the number of development incentives set forth in the preceding sections, if requested by the Developer, unless the City makes a written finding, based upon substantial evidence of either of the following:

1. The incentive is not required in order to provide for the affordable rents or the affordable housing costs as defined in Section 50052.5 of the Health and Safety Code, or
2. The incentive would have a specific adverse impact upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to

low and moderate-income households, as defined in California Government Code Section 65589.5 (2)(d).

Development incentive means any of the following:

1. A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission as provided in Part 2.5 of Division 13 of the Health and Safety Code, including, but not limited to, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required that results in identifiable, financially sufficient, and actual costs reductions.
2. 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.
3. Other regulatory incentives or concessions proposed by the developer or the city that result in identifiable, financially sufficient, and actual cost reductions.

Rent Restrictions

Very Low-Income and Low-Income rent calculations shall be based on the updated AMI limits as adjusted for household size by the U.S. Department of Housing and Urban Development for San Diego County. Affordability is generally defined as not more than 30 percent of gross monthly income for rent and tenant paid utilities as adjusted for household size.

Current rent levels, as of February 2004, as adjusted by household size, are as follows:

RENT RESTRICTIONS					
Household Size	Unit Size	Very Low-Income (50% AMI)		Low-Income (60% AMI)	
		Income	Gross Rent*	Income	Gross Rent*
One	Studio	\$24,000	\$600	\$28,800	\$720
Two	1 bedroom	\$27,400	\$685	\$32,880	\$822
Three	2 bedroom	\$30,850	\$771	\$37,020	\$926
Four	3 bedroom	\$34,250	\$856	\$41,100	\$1,028

*Gross rent is equal to cash rent plus all tenant-paid utilities. See the “San Diego Housing Commission Utility Allocation Schedule” to calculate the tenant-paid utilities based on the project’s actual utilities mix. Maximum density bonus rents shall be equal to the Gross Rent minus a utility allowance.

Sales Prices Restrictions

Moderate-Income For-Sale Condominium or Planned Development

For-sale units meeting program requirements shall be affordable to households earning 120 percent AMI or less. Income restrictions shall be adjusted annually based upon the revisions to Area Median Income limits as promulgated from time to time by the U.S. Department of Housing and Urban Development.

The moderate income condominium or planned development units initial sales price shall be restricted to the maximum sales price, as established by the Housing Commission in its sole reasonable discretion, which will generate a monthly “housing cost” as defined in Section 50052.5 of the Health and Safety Code, which does not exceed 35 percent of 110 percent of AMI, assuming a down payment of five percent (5%) of the restricted sales price and utilizing the standard underwriting criteria of the Housing Commission as of the date of the initial sale of, and assuming prevailing 30-year fixed interest rates for, the moderate income restricted density bonus unit(s). Housing Costs shall include mortgage principal and interest, taxes, insurance, HOA fees and assessments. Upon request, the San Diego Housing Commission shall prepare and make available to Applicant any general information that the San Diego Housing Commission possesses regarding income limitations, sales prices, occupancy policies and restrictions which are applicable to the affected units.

Estimated maximum sales price restrictions as of February 2004 are as follows:

**2004 Estimated Maximum Sales Price Restrictions
110% Area Median Income**

Bedroom Size	Studio	1-BR	2-BR	3-BR
Family Size	1	2	3	4
110% AMI	\$48,800 / \$4,067	\$55,800 / \$4,650	\$62,750 / \$5,229	\$69,750 / \$5,813
Housing Debt	35%	35%	35%	35%
Amount Available For Housing	\$ 1,423	\$ 1,628	\$ 1,830	\$ 2,035
Less:				
HOA	\$ -225	\$ -225	\$ -225	\$ -225
Taxes/Assess. @ 1.25%	\$ -186	\$ -218	\$ -249	\$ -281
	\$ -411	\$ -443	\$ -474	\$ -506
Amount Available For 1 st Trust Deed Loan	\$ 1,012	\$ 1,185	\$ 1,356	\$ 1,529
1 st Trust Deed Loan*	\$169,385	\$198,360	\$226,860	\$255,835
5% Down Payment	\$ 8,915	\$ 10,440	\$ 11,940	\$ 13,465
Maximum Sales Price	\$178,300	\$208,800	\$238,800	\$269,300

* Interest rate 5.97 percent based on FHA 30-year fixed (week 2/16/04)

Final sales prices will be set 4 months prior to construction completion, on a project-by-project basis, in accordance with the Housing Commission Schedule of Sales Price Restrictions in effect at such time.

The eligibility of each prospective buyer and the sales price under the restrictions set forth above shall be certified by the San Diego Housing Commission. Developers shall submit documentation to the San Diego Housing Commission for a determination of buyer eligibility at least 45 days prior to the close of Escrow on each restricted unit. Affordable Units must be owner-occupied.

Interaction between Density Bonus Program and Other Affordable Housing Programs

A project can utilize the density bonus program to meet other affordable housing development obligations, including the City's Inclusionary Housing Program and Coastal Affordable Housing Program. In the event of a conflict between the rules and regulations of two or more affordable housing programs, the more restrictive program rules shall apply. If a developer wishes to build a project using local, state, or federal affordable housing financing, the Affordable Housing Density Bonus may also be used (e.g., Multifamily Bond Program, Federal Tax Credit Program, City Redevelopment Agency). The following are some anticipated scenarios:

1. Density Bonus and Inclusionary Housing Program

Where a developer is utilizing the density bonus program, the density bonus affordable units shall count towards the developer’s affordability requirements under the City of San Diego’s Inclusionary Housing Program (San Diego Municipal Code Chapter 14, Article 2, Division 13).

A. Density Bonus Rental Units Restricted at 50 Percent of AMI

(1) Number of Density Bonus Affordable Units Equal Number of Inclusionary Affordable Units. Any rental affordable unit that must be restricted at or below 50 percent of AMI under the Density Bonus Program, that will count towards the developer’s affordability requirements under the Inclusionary Housing Program, shall be rented to persons with incomes at or below 50 percent of area median income, at a monthly rent equal to 1/12th of 30 percent of 50 percent of AMI for 55 years.

Example: 100 units; 10% density bonus @ 50% AMI, 10% Inclusionary @ 65% AMI			
	Inclusionary Housing	Density Bonus	Combined
Number of units	10	10	10
Affordability Term	55 years	30 years	55 years
Affordability Level	65% AMI	50% AMI	50% AMI
Income Limits	65% AMI	50% AMI	50% AMI

(2) Number of Density Bonus Affordable Units Exceed Number of Inclusionary Affordable Units. In the event the developer is required to restrict a number of units at 50 percent of AMI under the Density Bonus Program, which number exceeds the number of units that must be restricted under the Inclusionary Housing Program, then such units in excess of the number of units that must be restricted under the Inclusionary Housing Program, shall be restricted under the terms of the Density Bonus Program only (i.e., at 50 percent of AMI for 30 years).

Example: 100 units; 11% density bonus @ 50% AMI, 10% Inclusionary @ 65% AMI				
	Inclusionary Housing	Density Bonus	Combined	
Number of units	10	11	10	1
Affordability Term	55 years	30 years	55 years	30 years
Affordability Level	65% AMI	50% AMI	50%	50%
Income Limits	65% AMI	50% AMI	50%	50%

(3) Number of Inclusionary Affordable Units Exceed Number of Density Bonus Affordable Units. In the event the developer is required to restrict a number of units under the Inclusionary Housing Program, which number exceeds the number of units that must be restricted at 50 percent of AMI under the Density Bonus Program, then such units in excess of the number of units that must be restricted under the Density Bonus Program, shall be restricted under the terms of the Inclusionary Housing Program only (i.e., at 65 percent of AMI for 55 years).

Example: 100 units; 5% density bonus @ 50% AMI, 10% Inclusionary @ 65% AMI				
	Inclusionary Housing	Density Bonus	Combined	
Number of units	10	5	5	5
Affordability Term	55 years	30 years	55 years	55 years
Affordability Level	65% AMI	50% AMI	50%	65%
Income Limits	65% AMI	50% AMI	50%	65%

B. Density Bonus Rental Units Restricted at 60 Percent of AMI

(1) Number of Density Bonus Affordable Units Equal Number of Inclusionary Affordable Units. Any rental affordable unit that must be restricted at or below 60 percent of AMI under the Density Bonus Program, that will count towards the developer's affordability requirements under the Inclusionary Housing Program, shall be rented to persons with incomes at or below 60 percent of area median income, at a monthly rent equal to 1/12th of 30 percent of 60 percent of AMI for 55 years.

Example: 100 units; 10% density bonus @ 60% AMI, 10% Inclusionary @ 65% AMI			
	Inclusionary Housing	Density Bonus	Combined
Number of units	10	10	10
Affordability Term	55 years	30 years	55 years
Affordability Level	65% AMI	60% AMI	60% AMI
Income Limits	65% AMI	80% AMI	65% AMI

(2) Number of Density Bonus Affordable Units Exceed Number of Inclusionary Affordable Units. In the event the developer is required to restrict a number of units at 60 percent of AMI under the Density Bonus Program, which number exceeds the number of units that must be restricted under the Inclusionary Housing Program, then such units in excess of the number of units that must be restricted under the Inclusionary Housing Program, shall be restricted under the terms of the Density Bonus Program only (i.e., at 60 percent of AMI for 30 years).

Example: 100 units; 20% density bonus @ 60% AMI, 10% Inclusionary @ 65% AMI				
	Inclusionary Housing	Density Bonus	Combined	
Number of units	10	20	10	10
Affordability Term	55 years	30 years	55 years	30 years
Affordability Level	65% AMI	60% AMI	60%	60%
Income Limits	65% AMI	80% AMI	65%	80%

(3) Inclusionary Affordable Units Cannot Exceed 60 Percent Density Bonus Affordable Units. The number of Inclusionary Affordable Units cannot exceed the number of Density Bonus Affordable Units restricted at 60 percent, since the minimum number of units that must be restricted at 60 percent in order to receive a density bonus is 10 percent, which equals the number of units which must be restricted under the Inclusionary Housing Program.

C. Condominium and Planned Development Density Bonus Units

(1) Condominium Density Bonus Affordable Units Equal or Exceed Inclusionary Affordable Units. In the case of for-sale condominiums or planned developments, the for-sale condominium or planned development density bonus affordable units shall count towards the developer’s affordability requirements under the Inclusionary Housing Program. In such event the Density Bonus provisions shall apply to the project, i.e., the units shall be sold to households with incomes at or below 120 percent of AMI, the initial sales prices of the units shall equal an amount which will generate a monthly “housing cost” which does not exceed 35 percent of 110 percent of AMI (using all of the criteria set forth hereinabove) and upon the first “resale” of the density bonus unit by the initial moderate income purchaser, the Housing Commission shall be entitled to its share of appreciation and to the payoff of the Housing Commission’s promissory note, etc.

Example: 100 units; 25% density bonus @ 110% AMI, 10% Inclusionary @ 100% AMI			
	Inclusionary Housing	Density Bonus	Combined
Number of units	10	25	25
Resale Provisions	Inclusionary Shared Equity	Density Bonus Resale & Recapture Provisions	Density Bonus Resale & Recapture Provisions
Affordability Level	100% AMI	110% AMI	110% AMI
Income Limits	100% AMI	120% AMI	100% AMI

(2) Inclusionary Affordable Units Cannot Exceed Condominium Density Bonus Units. The number of Inclusionary Affordable Units cannot exceed the number of condominiums or planned developments density bonus Affordable Units, since the minimum number of condominiums or planned developments units that must be restricted in order to receive a density bonus is 10 percent, which equals the number of units which must be restricted under the Inclusionary Housing Program.

2. Density Bonus, Coastal Affordable, and Inclusionary

Where a developer is utilizing the density bonus program, the density bonus affordable units shall count towards the developer’s replacement requirements under the City of San Diego’s Coastal Affordable Housing Replacement Regulations (San Diego Municipal Code Chapter 14, Article 3, Division 8) (in addition to counting towards the developer’s requirements under the Inclusionary Housing Program).

A. Density Bonus Rental Units Restricted at 50 Percent of AMI

(1) 50 Percent Density Bonus Units Count Towards Inclusionary and Coastal Requirements. Any rental affordable unit that must be restricted at or below 50 percent of AMI under the Density Bonus Program, that will count towards the developer’s affordability requirements under the Inclusionary Housing Program and the developer’s replacement requirements under the Coastal Affordable Housing Replacement Regulations, shall be rented to persons with incomes at or below 50 percent of area median income, at a monthly rent equal to 1/12th of 30 percent of 50 percent of AMI for 55 years.

	Inclusionary Housing	Density Bonus	Coastal	Combined
Affordability Term	55 years	30 years	5 years	55 years
Affordability Level	65% AMI	50% AMI	80% or 120% of AMI	50% AMI

(2) Density Bonus Affordable Units Exceed Inclusionary Affordable Units. In the event the developer is required to restrict a number of units under the Density Bonus Program, which number exceeds the number of units that must be restricted under the Inclusionary Housing Program (such units shall count towards developer’s replacement requirements under the Coastal Affordable Housing Replacement Regulations), then such units in excess of the number of units that must be restricted under the Inclusionary Housing Program, shall be restricted under the terms of the Density Bonus Program only (i.e., at 50 percent of AMI for 30 years).

Example: 100 units; 11% density bonus @ 50% AMI, 10% Inclusionary @ 65% AMI					
	Inclusionary Housing	Density Bonus	Coastal	Combined	
Number of units	10	11	10	10	1
Affordability Term	55 years	30 years	5 years	55 years	30 years
Affordability Level	65% AMI	50% AMI	80% or 120% of AMI	50% AMI	50% AMI

(3) Inclusionary Affordable Units Exceed Density Bonus Affordable Units. In the event the developer is required to restrict a number of units under the Inclusionary Housing Program (such units shall count towards developer’s replacement requirements under the Coastal Affordable Housing Replacement Regulations), which number exceeds the number of units that must be restricted under the Density Bonus Program, then such units in excess of the number of units that must be restricted under the Density Bonus Program, shall be restricted under the terms of the Inclusionary Housing Program only (i.e., at 65 percent of AMI for 55 years).

Example: 100 units; 5% density bonus @ 50% AMI, 10% Inclusionary @ 65% AMI					
	Inclusionary Housing	Density Bonus	Coastal	Combined	
Number of units	10	5	10	5	5
Affordability Term	55 years	30 years	5 years	55 years	55 years
Affordability Level	65% AMI	50% AMI	80% or 120% of AMI	50% AMI	65% AMI

(4) Coastal Affordable Units Exceed Density Bonus and Inclusionary Affordable Units. In the event the developer is required to restrict a number of units under the Coastal Affordable Housing Replacement Regulations, which number exceeds the number of units that must be restricted under the Inclusionary Housing Program and the Density Bonus Program, then such units in excess of the number of units that must be restricted under the Inclusionary Housing Program and the Density Bonus Program, shall be restricted under the terms of the Coastal Affordable Housing Replacement Regulations, as applicable (i.e., at 80 percent or 120 percent of AMI for 5 years).

Example: 100 units; 5% density bonus @ 50% AMI, 10% Inclusionary @ 65% AMI						
	Inclusionary Housing	Density Bonus	Coastal	Combined		
Number of units	10	5	15	5	5	5
Affordability Term	55 years	30 years	5 years	55 years	55 years	5 years
Affordability Level	65% AMI	50% AMI	80% or 120% of AMI	50% AMI	65% AMI	80% or 120% of AMI

B. Rental Density Bonus Units Restricted at 60% of AMI

(1) 60 Percent Density Bonus Units Count Towards Inclusionary and Coastal Requirements. Any rental affordable unit that must be restricted at or below 60 percent of AMI under the Density Bonus Program, that will count towards the developer’s affordability requirements under the Inclusionary Housing Program and the developer’s replacement requirements under the Coastal Affordable Housing Replacement Regulations, shall be rented to persons with incomes at or below 60 percent of area median income, at a monthly rent equal to 1/12th of 30 percent of 60 percent of AMI for 55 years.

	Inclusionary Housing	Density Bonus	Coastal	Combined
Affordability Term	55 years	30 years	5 years	55 years
Affordability Level	65% AMI	60% AMI	80% or 120% of AMI	50% AMI

(2) Density Bonus Affordable Units Exceed Inclusionary Affordable Units. In the event the developer is required to restrict a number of units under the Density Bonus Program, which number exceeds the number of units that must be restricted under the Inclusionary Housing Program (such units shall count towards developer’s replacement requirements under the Coastal Affordable Housing Replacement Regulations), then such units in excess of the number of units that must be restricted under the Inclusionary Housing Program, shall be restricted under the terms of the Density Bonus Program only (i.e., at 60 percent of AMI for 30 years).

Example: 100 units; 20% density bonus @ 60% AMI, 10% Inclusionary @ 65% AMI					
	Inclusionary Housing	Density Bonus	Coastal	Combined	
Number of units	10	20	10	10	10
Affordability Term	55 years	30 years	5 years	55 years	30 years
Affordability Level	65% AMI	60% AMI	80% or 120% of AMI	60% AMI	60% AMI

(3) Inclusionary Affordable Units Cannot Exceed 60 Percent Density Bonus Affordable Units. The number of Inclusionary Affordable Units cannot exceed the number of Density Bonus Affordable Units restricted at 60 percent, since the minimum number of units that must be restricted at 60 percent in

order to receive a density bonus is 10 percent, which equals the number of units which must be restricted under the Inclusionary Housing Program.

(4) Coastal Affordable Units Exceed Density Bonus Affordable Units. In the event the developer is required to restrict a number of units under the Coastal Affordable Housing Replacement Regulations, which number exceeds the number of units that must be restricted under the Density Bonus Program, then such units in excess of the number of units that must be restricted under the Density Bonus Program, shall be restricted under the terms of the Coastal Affordable Housing Replacement Regulations, as applicable (i.e., at 80 percent or 120 percent of AMI for 5 years).

Example: 100 units; 15% density bonus @ 60% AMI, 10% Inclusionary @ 65% AMI						
	Inclusionary Housing	Density Bonus	Coastal	Combined		
Number of units	10	15	20	10	5	5
Affordability Term	55 years	30 years	5 years	55 years	30 years	5 years
Affordability Level	65% AMI	60% AMI	80% or 120% of AMI	60% AMI	60% AMI	80% or 120% of AMI

C. Condominium and Planned Development Density Bonus Units

(1) Condominium Density Bonus Units Count Towards Inclusionary and Coastal Requirements. In the case of for-sale condominiums or planned developments, the for-sale condominium or planned development density bonus affordable units shall count towards the developer’s affordability requirements under the Inclusionary Housing Program and the developer’s replacement requirements under the Coastal Affordable Housing Replacement Regulations (regardless of whether the Coastal replacement requirement is at 80 percent or 120 percent of AMI, in such event the Density Bonus provisions shall apply to the project, i.e., the units shall be sold to households with incomes at or below 120 percent of AMI, the initial sales prices of the units shall equal an amount which will generate a monthly “housing cost” which does not exceed 35 percent of 110 percent of AMI (using all of the criteria set forth hereinabove) and upon the first “resale” of the density bonus unit by the initial moderate income purchaser, the Housing Commission shall be entitled to its share of appreciation and to the payoff of the Housing Commission’s promissory note, etc.

(2) Inclusionary Affordable Units Cannot Exceed Condominium Density Bonus Units. The number of Inclusionary Affordable Units cannot exceed the number of condominiums or planned developments density bonus Affordable Units, since the minimum number of condominiums or planned developments units that must be restricted in order to receive a density bonus is 10 percent, which equals the number of units which must be restricted under the Inclusionary Housing Program.

(3) Coastal Affordable Units Exceed Condominium Density Bonus Affordable Units. In the event the developer is required to restrict a number of units under the Coastal Affordable Housing Replacement Regulations, which number exceeds the number of units that must be restricted under the Density Bonus Program, then such units in excess of the number of units that must be restricted under the Density Bonus Program, shall be restricted under the terms of the Coastal Affordable Housing Replacement Regulations, as applicable (i.e., at 80 percent or 120 percent of AMI for 5 years).

3. Density Bonus and On-Site Building Bonus

Where a developer is utilizing the on-site building bonus of 10 percent (San Diego Municipal Code §142.1320, §143.0718 and §173.0735), the developer may also obtain a density bonus in accordance with the provisions set forth herein. In such event the density bonus will be in addition to the 10 percent on-site building bonus, provided, however, in no event shall the combined bonus (the 10 percent on-site building bonus, plus the density bonus) exceed 35 percent.

Example: 100 units, 35% increase in density (10% On-Site + 25% State Density Bonus); 13% density bonus @ 60% AMI, 10% Inclusionary @ 65% AMI				
	Inclusionary Housing	Density Bonus	Combined	
Number of units	10	13	10	3
Affordability Term	55 years	30 years	55 years	30 years
Affordability Level	65% AMI	60% AMI	60% AMI	60% AMI

Comparability Provisions

San Diego Municipal Code requires that the affordable units shall be comparable in bedroom mix and characteristics to the market-rate units.

1. Size - Affordable unit(s) shall be similarly sized as the market-rate units in the development. The affordable units shall not be substantially smaller than the market rate units.
2. Unit/model type - Affordable unit(s) shall be provided in proportion to the total project unit/model type ratio (e.g. a 20-unit project with 5 two-bedroom/2 bath units, 5 two-bedroom/one-bath units, and 10 three-bedroom two-bath units; Developer shall provide 1 two-bedroom/2 bath unit, 1 two-bedroom/one-bath unit, and 2 three-bedroom 2-bath units.)
3. Amenities - Affordable unit(s) shall be provided the same amenities as offered to the market rate units. E.g. If market rate units have garages, balconies, or access to recreational services such as pools or recreation rooms, the affordable units shall have garages, balconies and access to recreational services in proportion to the market rate units. Internal finishes, material and features are not considered amenities.
4. In cases of only one affordable unit per project, developers shall provide the unit/model type most common in the project. (e.g., Within a ten-unit project where six units are two-

Housing Commission Staff and Attorney Fees

The Housing Commission will bill the owner/developer for staff time to review and process the density bonus application and staff time spent reviewing and processing owner requests for amendments to existing Density Bonus Agreements. Staff time will be billed at an hourly rate that includes the staff hourly rate plus costs for benefits and overhead expenses (currently at the rate of \$50.00 per hour). Fees must be paid prior to the execution of the Density Bonus Agreement or Amendment.

The Housing Commission will bill the Developer for attorney fees incurred to draft and execute density bonus agreements, amendments, and associated documents, including the documents related to the purchase of for-sale density bonus units. Fees must be paid prior to the execution of the Density Bonus Agreement and related documents. Attorney fees will be charged at the rate charged the Housing Commission (currently at a rate of \$130 per hour).

Other Fees/Program Income

Miscellaneous fees, damage awards, and program income collected under the Density Bonus Program shall be reallocated as follows:

- Funds collected will be recycled to the rental housing production or homeownership program, based on program demand. These recycled fees shall be permitted for re-allocation to affordable housing activities anywhere in the City of San Diego.
- Any recapture of the Housing Commission's proportionate share of appreciation, shall be recycled to the homeownership program and used within three years for any of the purposes described in Health and Safety Code Section 33334.2 (e) that promote homeownership. These recycled fees shall be permitted for re-allocation to homeownership activities anywhere in the City of San Diego.
- Ten percent (10%) of all fees and program income collected may be used as administrative fees to offset Housing Commission staff expenses under the Rental Housing Production Program and Homeownership Program.

Conversion of Tenure Type for Affordable Units

Any Affordable Units originally constructed pursuant to the Program, and later proposed to change the type of tenure from rental to for-sale must satisfy the requirements of this Procedures Manual. Any affordable rental units to be converted to for-sale units shall be sold at or below the Maximum Purchase Price, as determined by the Commission in its sole reasonable discretion, to Targeted Ownership Households meeting the income qualifications specified in the Density Bonus Agreement, with a right of first refusal for the occupants. E.g. if the Density bonus agreement income restrictions are at 80 percent AMI, the maximum sales prices will be calculated at 35 percent of 80 percent AMI, using current Housing Commission guidelines. The Maximum Purchase Price shall be calculated by the Commission in its sole reasonable discretion, using the methodology set forth under the heading "Density Bonus Agreement and Restrictions", Section F.3., above, except that such purchase price shall be calculated based upon the income qualifications applicable to such

unit as set forth in the Density Bonus Agreement. All provisions of the Program at the time of said conversion shall apply to the conversion of the Unit, including sales price, length of restriction, and method of restriction.

Relocation Plan

Developers of density bonus units converting to condominium, which action has been previously approved by the Housing Commission's President and Chief Executive Officer, shall provide the following:

- Tenant Relocation Assistance in the form of payment in the amount of three months of the current rent. The relocation payment shall be paid no later than the day on which the applicant gives notice to the density bonus tenant to vacate the premises. This money may be used by the tenant as down payment assistance to purchase the unit when it is converted.
- Tenant must be provided a Notice of an exclusive right to contract for the purchase of their unit upon the same terms and conditions that such unit will be initially offered to the general public, or terms more favorable to the tenant.
- All required Notices per California state law (California Government Code Section 66427.1) and the City of San Diego's Municipal Code (Sections 125.0431 and 125.0640).