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Regulations, section 15308 (actions by regulatory agencies for protection of the environment), as the updated density bonus regulations are intended to assure the enhancement or protection of the environment by combatting the current housing crisis, including the environmental harms caused by the housing crisis due to the lack of affordable housing, as declared by the State Legislature. By providing incentives for more affordable housing options the ordinance will decrease pressure to develop farmland, open space, and rural interface areas to build affordable housing, as well as decrease greenhouse gas emissions caused from longer commutes to affordable homes far from growing job centers.

SECTION 2. Table 82-9A of Section 82.04.060 of the San Bernardino County Code is amended to read as follows:

<i>Table 82-9A</i>			
<i>Residential Land Use Zoning District Development Standards</i>			
<i>Valley Region</i>			
<i>Development Feature</i>	<i>Requirement by Land Use Zoning District</i>		
	<i>RL Rural Living</i>	<i>RS Single Residential</i>	<i>RM Multiple Residential</i>
<b>Density</b>	Housing density. The actual number of units allowed will be determined by the County through subdivision or planning permit approval, as applicable.		
Minimum density	No minimum	No minimum	11 units per acre <sup>(6)</sup>
Maximum density <sup>(5)</sup>	1 unit per 2.5 acres <sup>(1)</sup> ; accessory dwellings as allowed by Chapter 84.01 (Accessory Structures and Uses)	4 units per acre <sup>(1)</sup> ; accessory dwellings as allowed by Chapter 84.01 (Accessory Structures and Uses)	20 units per acre; accessory dwellings as allowed by Chapter 84.01 (Accessory Structures and Uses)
<b>Setbacks</b>	Minimum setbacks required. See Chapter 83.02 for exceptions, reductions, and encroachments. See Division 5 for any setback requirements applicable to specific land uses.		
Front	25 ft.	25 ft. <sup>(2)</sup>	25 ft. <sup>(2)</sup>
Side - Street side	Local street - 15 ft.; Collector or wider - 25 ft.	Local street - 15 ft.; Collector or wider - 25 ft.	Local street - 15 ft.; Collector or wider - 25 ft.
Side - Interior (each)	Lot 75 wide or less - 5 ft. on one side, 10 ft. on other; Other lots - 15 ft.	5 ft. on one side, 10 ft. on other	5 ft. on one side, 10 ft. on other
Rear	15 ft.	15 ft.	15 ft.
<b>Lot coverage</b>	Maximum percentage of the total lot area that may be covered by structures and impervious surfaces.		
Maximum coverage	20 percent	Lot less than 20,000 sq. ft - Entire building envelope <sup>(3)</sup> ; Lot of 20,000 sq. ft. or larger - 40 percent <sup>(4)</sup>	60 percent

<b>Height limit</b>	Maximum allowed height of structures. See § 83.02.040 (Height Limits and Exceptions) for height measurement requirements, and height limit exceptions.		
Maximum height	35 ft.	35 ft.	45 ft.
<b>Accessory structures</b>	See Chapter 84.01 (Accessory Structures and Uses).		
<b>Infrastructure</b>	See Chapter 83.09 (Infrastructure Improvement Standards).		
<b>Parking</b>	See Chapter 83.11 (Parking Regulations).		
<b>Signs</b>	See Chapter 83.13 (Sign Regulations).		
<b>Notes:</b>			
(1) Map suffix may modify.			
(2) A Final Map or Parcel Map may establish front yard setbacks of no less than 22 feet, provided that the average setback of all parcels in the subdivision is 25 feet.			
(3) Setback, Building Code, and Composite Development Plan requirements still apply.			
(4) The maximum lot coverage allowed in Chapter 82.06, Table 82-21A will prevail for allowed institutional land uses.			
(5) The maximum density may be greater when modified by Chapter 83.03 (Affordable Housing Incentives – Density Bonus).			
(6) If a parcel is adjacent to a lower density Land Use Zoning District and is not required to connect to sewer, property owners can subdivide/develop below the minimum density.			

SECTION 3. Table 82-9B of Section 82.04.060 of the San Bernardino County Code is amended to read as follows:

<i>Table 82-9B</i>			
<i>Residential Land Use Zoning District Development Standards</i>			
<i>Mountain Region</i>			
<i>Development Feature</i>	<i>Requirement by Land Use Zoning District</i>		
	<i>RL Rural Living</i>	<i>RS Single Residential</i>	<i>RM Multiple Residential</i>
<b>Density</b>	Housing density. The actual number of units allowed will be determined by the County through subdivision or planning permit approval, as applicable.		
Minimum density	No minimum	No minimum	5 units per acre <sup>(5)</sup>
Maximum density <sup>(4)</sup>	1 unit per 2.5 acres <sup>(1)</sup> ; accessory dwellings as allowed by Chapter 84.01 (Accessory Structures and Uses)	4 units per acre <sup>(1)</sup> ; accessory dwellings as allowed by Chapter 84.01 (Accessory Structures and Uses)	20 units per acre; accessory dwellings as allowed by Chapter 84.01 (Accessory Structures and Uses)
<b>Setbacks</b>	Minimum setbacks required. See Chapters 83.02 for exceptions, reductions, and encroachments. See Division 5 for any setback requirements applicable to specific land uses.		
Front	25 ft.	Lot less than 14,000 sq. ft. = 15 ft.; lots 14,000 sq. ft. or larger = 25 ft.	Lot less than 14,000 sq. ft. = 15 ft.; lots 14,000 sq. ft. or larger = 25 ft.
Side - Street side	25 ft.	15 ft.	15 ft.
Side - Interior (each)	20 ft.	20 percent of lot width, need not exceed 15 ft. <sup>(2)</sup>	20 percent of lot width, need not exceed 15 ft. <sup>(2)</sup>
Rear	20 ft.	15 ft.	15 ft.

Accessory structures	See Chapter 84.01 (Accessory Structures and Uses)		
Lot coverage	Maximum percentage of the total lot area that may be covered by structures and impervious surfaces.		
Maximum coverage	20 percent	40 percent <sup>(3)</sup>	60 percent
Height limit	Maximum allowed height of structures. See § 83.02.040 (Height Limits and Exceptions) for height measurement requirements, and height limit exceptions.		
Maximum height	35 ft.	35 ft.	45 ft.
Accessory structures	See Chapter 84.01 (Accessory Structures and Uses).		
Infrastructure	See Chapter 83.09 (Infrastructure Improvement Standards).		
Parking	See Chapter 83.11 (Parking Regulations).		
Signs	See Chapter 83.13 (Sign Regulations).		
Notes:			
(1) Map suffix may modify.			
(2) The side yard setback standards in the Fire Safety Overlay (Chapter 82.13) shall prevail.			
(3) The maximum lot coverage allowed in Chapter 82.06, Table 82-21B will prevail for allowed institutional land uses.			
(4) The maximum density may be greater when modified by Chapter 83.03 (Affordable Housing Incentives – Density Bonus).			
(5) If a parcel is adjacent to a lower density Land Use Zoning District and is not required to connect to sewer, property owners can subdivide/develop below the minimum density.			

SECTION 4. Table 82-9C of Section 82.04.060 of the San Bernardino County Code is amended to read as follows:

<i>Table 82-9C</i>			
<i>Residential Land Use Zoning District Development Standards</i>			
<i>Desert Region</i>			
<i>Requirement by Land Use Zoning District</i>			
<i>Development Feature</i>	<i>RL Rural Living</i>	<i>RS Single Residential</i>	<i>RM Multiple Residential</i>
<b>Density</b>	Housing density. The actual number of units allowed will be determined by the County through subdivision or planning permit approval, as applicable.		
Minimum density	No minimum	No minimum	5 or 11 units per acre <sup>(8)(9)</sup>
Maximum density <sup>(7)</sup>	1 unit per 2.5 acres <sup>(1)</sup> ; accessory dwellings as allowed by Chapter 84.01 (Accessory Structures and Uses)	4 units per acre <sup>(1)</sup> ; accessory dwellings as allowed by Chapter 84.01 (Accessory Structures and Uses)	20 units per acre; accessory dwellings as allowed by Chapter 84.01 (Accessory Structures and Uses)
<b>Setbacks</b>	Minimum setbacks required. See Chapter 83.02 for exceptions, reductions, and encroachments. See Division 5 for any setback requirements applicable to specific land uses.		
Front	25 ft.	25 ft. <sup>(2)</sup>	25 ft. <sup>(2)</sup>
Side - Street side	25 ft.	Local street - 15 ft. <sup>(3)</sup> ; Collector or wider - 25 ft.	Local street - 15 ft.; Collector or wider - 25 ft.
Side -	Lot 75 wide or less - 5 ft. on	5 ft. on one side, 10 ft. on other <sup>(4)</sup>	5 ft. on one side, 10 ft. on other

Interior (each)	one side, 10 ft. on other; Other lots - 15 ft.		
Rear	15 ft.	15 ft.	15 ft.
Accessory structures	See Chapter 84.01 (Accessory Structures and Uses)		
Lot coverage	Maximum percentage of the total lot area that may be covered by structures and impervious surfaces.		
Maximum coverage	20 percent	Lot less than 20,000 sq. ft. - Entire building envelope <sup>(5)</sup> Lot of 20,000 sq. ft. or larger - 40 percent <sup>(6)</sup>	60 percent
Height limit	Maximum allowed height of structures. See § 83.02.040 (Height Limits and Exceptions) for height measurement requirements, and height limit exceptions.		
Maximum height	35 ft.	35 ft.	45 ft.
Accessory structures	See Chapter 84.01 (Accessory Structures and Uses).		
Infrastructure	See Chapter 83.09 (Infrastructure Improvement Standards).		
Parking	See Chapter 83.11 (Parking Regulations).		
Signs	See Chapter 83.13 (Sign Regulations).		
Notes:			
(1) Map suffix may modify.			
(2) A Final Map or Parcel Map may establish front yard setbacks of no less than 22 feet, provided that the average setback of all parcels in the subdivision is 25 feet.			
(3) This setback shall be 25 feet in the Phelan-Pinon Hills Community Plan area.			
(4) This setback shall be 10 feet on both sides in the Phelan-Pinon Hills Community Plan area.			
(5) Setback, Building Code, and Composite Development Plan requirements still apply.			
(6) The maximum lot coverage allowed in Chapter 82.06, Table 82-21C will prevail for allowed institutional land uses.			
(7) The maximum density may be greater when modified by Chapter 83.03 (Affordable Housing Incentives – Density Bonus).			
(8) In areas served by piped water, sewer and paved roads, the minimum density shall be 11 units per acre.			
(9) If a parcel is adjacent to a lower density Land Use Zoning District and is not required to connect to sewer, property owners can subdivide/develop below the minimum density.			

SECTION 5. Chapter 83.03 of the San Bernardino County Code is amended to read in its entirety as follows:

### **CHAPTER 83.03: AFFORDABLE HOUSING INCENTIVES - DENSITY BONUS**

#### **Section**

83.03.010 Purpose.

83.03.020 Applicability.

83.03.030 Eligibility for Bonus, Incentives, or Concessions.

83.03.040 Allowed Density Bonuses.

83.03.050 Allowed Incentives or Concessions.

- 1           83.03.060    Parking Requirements in Density Bonus Projects.
- 2           83.03.070    Bonus and Incentives for Housing with Child Care Facilities.
- 3           83.03.080    Continued Availability.
- 4           83.03.090    Location and Type of Designated Units.
- 5           83.03.100    Processing of Bonus Requests.
- 6           83.03.110    Density Bonus Agreement.
- 7           83.03.120    Control of Resale.
- 8           83.03.130    Judicial Relief, Waiver of Standards.

9   **83.03.010    Purpose.**

10           This Chapter is intended to implement Government Code sections 65915 *et seq.*  
11   and the Housing Element of the Policy Plan, and to increase the production of  
12   affordable and senior citizen housing.

13   **83.03.020    Applicability.**

14           The provisions of this Chapter apply to a proposed housing development, as  
15   defined by Government Code section 65915(i), as may be amended from time to time,  
16   that is eligible for a requested density bonus, incentives or concessions, or waiver or  
17   reduction of development standards and parking ratios described herein, and is  
18   applicable in all zones that allow residential as a primary use.

19   **83.03.030    Eligibility for Bonus, Incentives, or Concessions.**

20           In order to be eligible for a density bonus and other incentives or concessions as  
21   provided by this Chapter, a proposed housing development shall comply with the  
22   following requirements and shall satisfy all other applicable provisions of this  
23   Development Code, except as provided by section 83.03.050 (Allowed Incentives or  
24   Concessions).

25           (a)   *Resident Requirements.* A housing development proposed to qualify for a  
26   density bonus shall be designed and constructed so that it includes at least any one of  
27   the following:

- 28                   (1)   At least 10 percent of the total number of proposed units are for

1 lower income households, as defined in Health and Safety Code section 50079.5;

2 (2) At least 5 percent of the total number of proposed units are for very  
3 low-income households, as defined in Health and Safety Code section 50105;

4 (3) The project is a senior citizen housing development as defined in  
5 Civil Code sections 51.3 and 51.12, or is a mobile home park that limits residency  
6 based on age requirements for housing older persons in compliance with Civil Code  
7 sections 798.76 or 799.5;

8 (4) At least 10 percent of the total dwelling units in a common interest  
9 development, as defined in Civil Code section 4100, for persons and families of  
10 moderate income, as defined in Health and Safety Code section 50093, provided that all  
11 units in the development are offered to the public for purchase;

12 (5) At least 10 percent of the total units of a housing development for  
13 transitional foster youth, as defined in Education Code section 66025.9, disabled  
14 veterans, as defined in Government Code section 18541, or homeless persons, as  
15 defined in the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11301  
16 et seq.). The units described in this paragraph shall be subject to a recorded  
17 affordability restriction of 55 years and shall be provided at the same affordability level  
18 as very low-income units;

19 (6) At least 20 percent of the total units for lower income students in a  
20 student housing development that meets the requirements of Government Code section  
21 65915(b)(1)(F); or

22 (7) One hundred percent of all units in the development, including total  
23 units and density bonus units, but exclusive of a manager's unit or units, are for lower  
24 income households, as defined by Health and Safety Code section 50079.5, except that  
25 up to 20 percent of the units in the development, including total units and density bonus  
26 units, may be for moderate-income households, as defined in Health and Safety Code  
27 section 50053.

28 (b) *Applicant Selection of Basis for Bonus.* For purposes of calculating the

amount of the density bonus in compliance with section 83.03.040 (Allowed Density Bonuses), the applicant who requests a density bonus shall elect whether the bonus shall be awarded on the basis of subsections (a)(1), (2), (3), (4), (5), (6) or (7).

(c) *Bonus Units Shall Not Qualify a Project.* A density bonus granted in compliance with section 83.03.040 (Allowed Density Bonuses) shall not be included when determining the number of housing units that is equal to the percentages required by subsection (a).

(d) *Minimum Project Size to Qualify for Density Bonus.* The density bonus provided by this Chapter shall be available only to a housing development of five or more residential units, including mixed-use developments.

(e) *Condominium Conversion Projects.* A condominium conversion project for which a density bonus is requested shall comply with the eligibility and other requirements in Government Code section 65915.5.

**83.03.040 Allowed Density Bonuses.**

The Board shall determine the amount of a density bonus allowed in a housing development in compliance with this section. For the purposes of this Chapter, “density bonus” means a density increase over the otherwise maximum allowable gross residential density under the applicable Policy Plan designation and zoning district as of the date of application by the applicant to the County.

(a) *Density Bonus.* A housing development that complies with the eligibility requirements in section 83.03.030(a)(1), (2), (3), (4), (5), (6) or (7) shall be entitled to density bonuses as follows, unless a lesser percentage or no increase in density bonus is proposed by the applicant.

(1) *Bonus for Units for Lower Income Households.* A housing development that is eligible for a bonus in compliance with the criteria in section 83.03.030(a)(1) (ten percent of units for lower income households) shall be entitled to a density bonus calculated as follows:



<i>Percentage of Low-Income Units Proposed</i>	<i>Percentage of Density Bonus</i>
10	20
11	21.5
12	23
13	24.5
14	26
15	27.5
16	29
17	30.5
18	32
19	33.5
20	35
21	38.75
22	42.5
23	46.25
24	50

(2) *Bonus for Units for Very Low-income Households.* A housing development that is eligible for a bonus in compliance with the criteria in section 83.03.030(a)(2) (5 percent of units for very low-income households) shall be entitled to a density bonus calculated as follows:

<i>Percentage of Very Low-Income Units Proposed</i>	<i>Percentage of Density Bonus</i>
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35
12	38.75
13	42.5
14	46.25
15	50

(3) *Bonus for Senior Citizen Development.* A housing development that is eligible for a bonus in compliance with the criteria in section 83.03.030(a)(3) (senior citizen housing development or mobile home park) shall be entitled to a density bonus of 20 percent of the number of senior housing units.

(4) *Bonus for Transitional Foster Youth, Disabled Veterans, or Homeless Persons.* A housing development that is eligible for a bonus in compliance with the criteria in section 83.03.030(a)(5) (transitional foster youth, disabled veterans, or homeless persons) shall be entitled to a density bonus of 20 percent of the number of the type of units giving rise to a density bonus.

(5) *Bonus for Student Housing Development.* A housing development that is eligible for a bonus in compliance with the criteria in section 83.03.030(a)(6) (lower-income students in a student housing development) shall be entitled to a density bonus of 35 percent of the student housing units.

(6) *Bonus for 100% Affordable Housing Development.* A housing development that is eligible for a bonus in compliance with the criteria in section 83.03.030(a)(7) (100 percent of all units in development affordable with up to 20 percent moderate) shall be entitled to a density bonus of 80 percent of the number of units for lower-income households, except if the housing development is located within one-half mile of a major transit stop, then no maximum density controls shall be applied.

(7) *Bonus for Moderate-income Units in Common Interest Development.* A housing development that is eligible for a bonus in compliance with the criteria in section 83.03.030(a)(4) (10 percent of units in a common interest development for persons and families of moderate income) shall be entitled to a density bonus calculated as follows:

<i>Percentage of Moderate-Income Units Proposed</i>	<i>Percentage of Density Bonus</i>
10	5
11	6
12	7

1	13	8
2	14	9
3	15	10
4	16	11
5	17	12
6	18	13
7	19	14
8	20	15
9	21	16
10	22	17
11	23	18
12	24	19
13	25	20
14	26	21
15	27	22
16	28	23
17	29	24
18	30	25
19	31	26
20	32	27
21	33	28
22	34	29
23	35	30
24	36	31
25	37	32
26	38	33
27	39	34
28	40	35
	41	38.75
	42	42.5
	43	46.25
	44	50

(8) *Density Bonus for Land Donation.* When an applicant for a Tentative Map, Parcel Map, or other residential development approval donates land to

the County in compliance with this subsection, the applicant shall be entitled to a density bonus for the entire development, provided that nothing in this subsection shall be construed to affect the authority of the County to require a developer to donate land as a condition of development, as follows:

(A) *Basic Bonus*. The applicant shall be entitled to a 15 percent increase above the otherwise maximum allowable residential density under the applicable Policy Plan land use designation and zoning district for the entire development, as follows.

<i>Percentage of Very Low-Income Units Proposed</i>	<i>Percentage of Density Bonus</i>
10	15
11	16
12	17
13	18
14	19
15	20
16	21
17	22
18	23
19	24
20	25
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30	35

(B) *Increased Bonus*. The increase identified in the table above

1 shall be in addition to any increase in density required by subsections (a)(1) through  
2 (a)(7), up to a maximum combined mandated density increase of 35 percent if an  
3 applicant seeks both the increase required in compliance with this subsection (a)(8), as  
4 well as the bonuses provided by subsections (a)(1) through (a)(7).

5 (C) *Eligibility for Increased Bonus.* An applicant shall be eligible  
6 for the increased density bonus provided by this subsection if all of the following  
7 conditions are met:

8 (I) The applicant donates and transfers the land no later  
9 than the date of approval of the Final Map, Parcel Map, or residential development  
10 application.

11 (II) The developable acreage and zoning classification of  
12 the land being transferred are sufficient to permit construction of units affordable to very  
13 low-income households in an amount not less than ten percent of the number of  
14 residential units of the proposed development.

15 (III) The transferred land is at least one acre in size, or of  
16 sufficient size to permit development of at least 40 units; has the appropriate Policy Plan  
17 land use designation; is appropriately zoned for development as affordable housing;  
18 and is or will be served by adequate public facilities and infrastructure. The land shall  
19 have appropriate zoning and development standards to make the development of the  
20 affordable units feasible.

21 (IV) No later than the date of approval of the Final Map,  
22 Parcel Map, or of the residential development, the transferred land shall have all of the  
23 permits and approvals, other than Building Permits, necessary for the development of  
24 the very low income housing units on the transferred land, except that the County may  
25 subject the proposed development to subsequent design review to the extent authorized  
26 by Government Code section 65583.2(i) if the design is not reviewed by the County  
27 before the time of transfer.

28 (V) The transferred land and the affordable units shall be

1 subject to a deed restriction ensuring continued affordability of the units consistent with  
2 section 83.03.080 (Continued Availability), which shall be recorded on the property at  
3 the time of dedication.

4 (VI) The land is transferred to the County or to a housing  
5 developer approved by the County. The County may require the applicant to identify  
6 and transfer the land to the approved housing developer.

7 (VII) The transferred land shall be within the boundary of  
8 the proposed development or, if the County agrees, within one-quarter mile of the  
9 boundary of the proposed development.

10 (VIII) A proposed source of funding for the very low-income  
11 units shall be identified not later than the date of approval of the final subdivision map,  
12 parcel map, or residential development application.

13 (b) *Density Bonus Calculations.* The calculation of a density bonus in  
14 compliance with this section that results in fractional units shall be rounded up to the  
15 next whole number, as required by State law. For the purpose of calculating a density  
16 bonus, the residential units do not have to be based upon individual subdivision maps or  
17 parcels.

18 (c) *Additional County Density Bonus.* In addition to subsection (a), when a  
19 project restricts at least 20% of proposed housing units for lower income households, as  
20 defined in Health and Safety Code section 50079.5, the County grants an additional  
21 density bonus for properties zoned Multiple Residential. The additional County density  
22 bonus for such projects shall be 10 units per acre in the Valley region, or Desert region  
23 when served by piped water, sewer, and paved roads; and 5 units per acre in the  
24 Mountain and remaining Desert regions. The resulting maximum density for such  
25 projects shall be 30 units per acre in the Valley region, or Desert region when served by  
26 piped water, sewer, and paved roads; and 25 units per acre in the Mountain and  
27 remaining Desert regions. These are the maximum densities that shall be used to  
28 calculate density bonus prescribed by state law and as provided in sections

83.03.030(a)(1), (a)(2), and (a)(7).

(d) *Requirements for Amendments or Discretionary Approval.* The granting of a density bonus shall not be interpreted, in and of itself, to require a Policy Plan amendment, zoning amendment, or other discretionary approval.

(e) *Location of bonus units.* The developer may locate density bonus units in the housing project in other than the areas where the units for the lower income households are located.

**83.03.050 Allowed Incentives or Concessions.**

(a) *Applicant Request and County Approval.* An applicant for a density bonus in compliance with this Chapter may submit to the County a proposal for the specific incentives or concessions listed in subsection (c) (Type of Incentives or Concessions), below, that the applicant requests in compliance with this section, and may request a meeting with the Director. The applicant may file a request either before filing an application for County approval of a proposed project or concurrently with an application for project approval. The Board shall grant an incentive or concession request that complies with this section unless the Board makes any of the following findings in writing, based upon substantial evidence:

(1) The incentive or concession does not result in identifiable and actual cost reductions, consistent with section 83.03.050(c), required to provide for affordable housing costs, as defined in Health and Safety Code section 50052.5, or for rents for the targeted units to be set as specified in section 83.03.070(b) (Unit Cost Requirements);

(2) The incentive or concession would have a specific adverse impact, as defined in Government Code section 65589.5(d)(2), upon public health and safety or the physical environment, or on any real property 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; or

1                   (3)     The incentive or concession would be contrary to state or federal  
2 law.

3                   (b)     *Number of Incentives or Concessions.* The applicant shall receive the  
4 following number of incentives or concessions.

5                   (1)     *One Incentive or Concession.* One incentive or concession for a  
6 project that includes at least 10 percent of the total units for lower income households,  
7 at least 5 percent for very low-income households, or at least 10 percent for persons  
8 and families of moderate income in a common interest development.

9                   (2)     *Two Incentives or Concessions.* Two incentives or concessions for  
10 a project that includes at least 17 percent of the total units for lower income households,  
11 at least ten percent for very low-income households, or at least 20 percent for persons  
12 and families of moderate income in a common interest development.

13                  (3)     *Three Incentives or Concessions.* Three incentives or concessions  
14 for a project that includes at least 24 percent of the total units for lower income  
15 households, at least 15 percent for very low-income households, or at least 30 percent  
16 for persons and families of moderate income in a common interest development.

17                  (4)     *Four Incentives or Concessions.* Four incentives or concessions for  
18 a project that includes 100 percent of all units in the development, including total units  
19 and density bonus units, for lower income households, as defined by Health and Safety  
20 Code section 50079.5, except that up to 20 percent of the units in the development may  
21 be for moderate-income households, as defined by Health and Safety Code section  
22 50053. If the project is located within one-half mile of a major transit stop, the applicant  
23 shall also receive a height increase of up to three additional stories, or 33 feet.

24                  (c)     *Type of Incentives or Concessions.* For the purposes of this Chapter,  
25 incentive or concession means any of the following:

26                   (1)     A reduction in the site development standards of this Development  
27 Code (e.g., site coverage limitations, setbacks, reduced parcel sizes, and/or parking  
28 requirements (see also section 83.03.060 [Parking Requirements in Density Bonus



Projects]), or a modification of architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission in compliance with Health and Safety Code sections 18901 et seq., that would otherwise be required, that results in identifiable, financially sufficient, and actual cost reductions;

(2) Approval of mixed-use land uses not otherwise allowed by this Development Code in conjunction with the housing development, if nonresidential land uses will reduce the cost of the housing development, and the nonresidential land uses are compatible with the housing project and the existing or planned development in the area where the project will be located;

(3) Other regulatory incentives or concessions proposed by the applicant or the County that will result in identifiable, financially sufficient, and actual cost reductions to provide for affordable housing costs; and/or

(4) In its sole and absolute discretion, a direct financial contribution granted by the Board, including writing-down land costs, subsidizing the cost of construction, or participating in the cost of infrastructure.

(d) *Effect of Incentive or Concession.* The granting of an incentive or concession shall not be interpreted, in and of itself, to require a Policy Plan amendment, zoning amendment, or other discretionary approval.

### **83.03.060 Parking Requirements in Density Bonus Projects.**

(a) *Applicability.* This section applies to a development that meets the requirements of section 83.03.030 (Eligibility for Bonus, Incentives, or Concessions), above, but only at the request of the applicant. An applicant may request additional parking incentives or concessions beyond those provided in this section in compliance with section 83.03.050 (Allowed Incentives or Concessions). A request pursuant to this section shall neither reduce nor increase the number or incentives or concessions to which the applicant is entitled.

(b) *Number of Parking Spaces Required.*

(1) *Maximum Parking Requirements.* Except as provided by section 83.03.060(b)(2) (Special Parking Requirements), at the request of the applicant, the County shall not require a vehicular parking ratio for a project that complies with the requirements of section 83.03.030 (Eligibility for Bonus, Incentives, or Concessions), inclusive of parking for the disabled and guest parking, that exceeds the following ratios:

(A) Zero to one bedroom: One on-site parking space per unit.

(B) Two to three bedrooms: One and one-half on-site parking spaces per unit.

(C) Four and more bedrooms: Two and one-half on-site parking spaces per unit.

(2) *Special Parking Requirements.* Notwithstanding section 83.03.060(b)(1) (Maximum Parking Requirements), lower parking ratios shall apply to the following specified projects:

(A) For sale or for rent housing development, that includes at least 20 percent low-income units or at least 11 percent very low-income units that is located within one-half mile of a major transit stop, and there is unobstructed access to the major transit stop from the development: 0.5 spaces per unit.

(B) For-rent housing development, 100 percent affordable to lower income families, located within one-half mile of a major transit stop and there is unobstructed access to the major transit stop from the development: 0 spaces per unit.

(C) For-rent housing development for individuals who are 62 years of age or older that complies with Civil Code sections 51.2 and 51.3, 100 percent affordable to lower income families, and the development has either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day: 0 spaces per unit.

(D) For-rent special needs housing development (as defined in Health and Safety Code section 51312), 100 percent affordable to lower income families, shall have either paratransit service or unobstructed access, within one-half

1 mile, to fixed bus route service that operates at least eight times per day: 0 spaces per  
2 unit.

3 (E) For-rent supportive housing development (as defined in  
4 Health and Safety Code section 50675.14), 100 percent affordable to lower income  
5 families: 0 spaces per unit.

6 (c) *Calculation of Parking.* If the total number of parking spaces required for a  
7 development is other than a whole number, the number shall be rounded up to the next  
8 whole number.

9 (d) *Location of Parking.* For purposes of this section, a development may  
10 provide on-site parking through tandem parking or uncovered parking, but not through  
11 on-street parking.

12 **83.03.070 Bonus and Incentives for Housing with Child Care Facilities.**

13 A housing development that complies with the resident and project size  
14 requirements of section 83.03.030 (Eligibility for Bonus, Incentives, or Concessions) and  
15 also includes as part of that development a child care facility other than a family day  
16 care home, that will be located on the site of, as part of, or adjacent to the development,  
17 shall be subject to the following additional bonus, incentives, and requirements:

18 (a) *Additional Bonus and Incentives.* The County shall grant a housing  
19 development that includes a child care facility in compliance with this section either of  
20 the following:

21 (1) An additional density bonus that is an amount of floor area in  
22 square feet of residential space that is equal to or greater than the floor area of the child  
23 care facility; or

24 (2) An additional concession or incentive that contributes significantly  
25 to the economic feasibility of the construction of the child care facility.

26 (b) *Requirements to Qualify for Additional Bonus and Incentives.*

27 (1) The County shall require, as a condition of approving the housing  
28 development, that the following occur:

1 (A) The child care facility shall remain in operation for a period of  
2 time that is as long as or longer than the period of time during which the density bonus  
3 units are required to remain affordable in compliance with section 83.03.080 (Continued  
4 Availability); and

5 (B) Of the children who attend the child care facility, the children  
6 of very low income households, lower income households, or families of moderate  
7 income shall equal a percentage that is equal to or greater than the percentage of  
8 dwelling units that are required for very low income households, lower income  
9 households, or families of moderate income in compliance with section 83.03.030  
10 (Eligibility for Bonus, Incentives, or Concessions).

11 (2) The County shall not be required to provide a density bonus or  
12 concession for a child care facility in compliance with this section if it finds, based upon  
13 substantial evidence, that the community has adequate child care facilities.

14 **83.03.080 Continued Availability.**

15 The units that qualified in the housing development for a density bonus and other  
16 incentives and concessions shall continue to be available as affordable units in  
17 compliance with the following requirements, as required by Government Code section  
18 65915(c). See also section 83.03.120 (Control of Resale).

19 (a) *Duration of Affordability.* The applicant shall agree to, and the County  
20 shall ensure, the

21 continued affordability of all low- and very low-income qualifying units  
22 shall be maintained for 55 years, or a longer time if required by the construction or  
23 mortgage financing assistance program, mortgage insurance program or rental subsidy  
24 program.

25 (b) *Unit Cost Requirements.* The rents charged for the housing units in the  
26 development that qualify the project for a density bonus and other incentives and  
27 concessions, shall not exceed the following amounts during the period of continued  
28 availability required by this section:

1           (1) *Lower Income Units.* Except as provided below in section  
2 83.03.080(b)(2), rents for the lower income density bonus units shall be set at an  
3 affordable rent as defined in Health and Safety Code section 50053.

4           (2) For housing developments meeting the criteria of section  
5 83.03.030(a)(7), rents for all units in the development, including both base density and  
6 density bonus units, shall be as follows:

7                   (A) The rent for at least 20 percent of the units in the  
8 development shall be set at an affordable rent, as defined in Health and Safety Code  
9 section 50053.

10                   (B) The rent for the remaining units in the development shall be  
11 set at an amount consistent with the maximum rent levels for a housing development  
12 that receives an allocation of state or federal low-income housing tax credits from the  
13 California Tax Credit Allocation Committee.

14           (c) *Occupancy and Resale of Moderate-income Common Interest*  
15 *Development Units.* An applicant shall agree to, and the County shall ensure that, the  
16 initial occupant of moderate income units that are directly related to the receipt of the  
17 density bonus in a common interest development as defined in Civil Code section 1351,  
18 are persons and families of moderate income, as defined in Health and Safety Code  
19 section 50093, and that the units are offered at an affordable housing cost, as defined in  
20 Health and Safety Code section 50052.5. The County shall enforce an equity sharing  
21 agreement unless it is in conflict with the requirements of another public funding source  
22 or law. The following requirements apply to the equity sharing agreement.

23                   (1) Upon resale, the seller of the unit shall retain the value of any  
24 improvements, the down payment, and the seller's proportionate share of appreciation.

25                   (2) The County shall recapture any initial subsidy and its proportionate  
26 share of appreciation, which shall then be used within five years for any of the purposes  
27 described in Health and Safety Code section 33334.2(e) that promote home ownership.  
28 For the purposes of this section:

1 (A) The County's initial subsidy shall be equal to the fair market  
2 value of the home at the time of initial sale, minus the initial sale price to the moderate-  
3 income household, plus the amount of any down payment assistance or mortgage  
4 assistance. If upon resale the market value is lower than the initial market value, then  
5 the value at the time of the resale shall be used as the initial market value; and

6 (B) The County's proportionate share of appreciation shall be  
7 equal to the ratio of the initial subsidy to the fair market value of the home at the time of  
8 initial sale.

9 **83.03.090 Location and Type of Designated Units.**

10 (a) *Location/Dispersal of Units.* As required by the Board in compliance with  
11 section 83.03.100 (Processing of Bonus Requests), designated units shall be  
12 reasonably dispersed throughout the project where feasible, shall contain on average  
13 the same number of bedrooms as the non-designated units in the project, and shall be  
14 compatible with the design or use of remaining units in terms of appearance, materials,  
15 and finished quality.

16 (b) *Phasing.* If a project is to be phased, the density bonus units shall be  
17 phased in the same proportion as the non-density bonus units, or phased in another  
18 sequence acceptable to the County.

19 **83.03.100 Processing of Bonus Requests.** A request for a density bonus and  
20 other incentives and concessions shall be evaluated and decided through Conditional  
21 Use Permit approval in compliance with Chapter 85.06 (Conditional Use Permits/Minor  
22 Use Permits); provided, the decision of the Commission on a Conditional Use Permit  
23 application shall be a recommendation to the Board, and the density bonus and other  
24 incentives and concessions shall be approved or denied only by the Board.

25 **83.03.110 Density Bonus Agreement.**

26 (a) *Agreement Required.* An applicant requesting a density bonus shall agree  
27 to enter into a density bonus agreement (referred to as the "agreement") with the  
28 County in the County's standard form of agreement.

1           (b)     *Agreement Provisions.*

2                   (1)     *Project Information.*   The agreement shall include at least the  
3 following information about the project:

4                           (A)    The total number of units approved for the housing  
5 development, including the number of designated dwelling units;

6                           (B)    A description of the household income group to be  
7 accommodated by the housing development, and the standards and methodology for  
8 determining the corresponding affordable rent or affordable sales price and housing  
9 cost consistent with HUD Guidelines;

10                          (C)    The marketing plan for the affordable units;

11                          (D)    The location, unit sizes (square feet), and number of  
12 bedrooms of the designated dwelling units;

13                          (E)    Tenure of the use restrictions for designated dwelling units of  
14 the time periods required by section 83.03.080 (Continued Availability);

15                          (F)    A schedule for completion and occupancy of the designated  
16 dwelling units;

17                          (G)    A description of the additional incentives and concessions  
18 being provided by the County;

19                          (H)    A description of the remedies for breach of the agreement by  
20 the owners, developers, and/or successors-in-interest of the project; and

21                          (I)    Other provisions to ensure successful implementation and  
22 compliance with this Chapter.

23                   (2)     *Minimum Requirements.*   The agreement shall provide, at  
24 minimum, that:

25                           (A)    The developer shall give the County the continuing right-of-  
26 first-refusal to lease or purchase any or all of the designated dwelling units at the  
27 appraised value;

28                           (B)    The deeds to the designated dwelling units shall contain a

1 covenant stating that the developer or successors-in-interest shall not assign, lease,  
2 rent, sell, sublet, or otherwise transfer any interests for designated units without the  
3 written approval of the County;

4 (C) When providing the written approval, the County shall  
5 confirm that the price (rent or sale) of the designated dwelling unit is consistent with the  
6 limits established for low and very low-income households, as published by HUD;

7 (D) The County shall have the authority to enter into other  
8 agreements with the developer, or purchasers of the designated dwelling units, to  
9 ensure that the required dwelling units are continuously occupied by eligible  
10 households;

11 (E) Applicable deed restrictions, in a form satisfactory to the  
12 County Counsel, shall contain provisions for the enforcement of owner or developer  
13 compliance. Any default or failure to comply may result in foreclosure, specific  
14 performance, or withdrawal of the Certificate of Occupancy;

15 (F) In any action taken to enforce compliance with the deed  
16 restrictions, the County Counsel shall, if compliance is ordered by a court of competent  
17 jurisdiction, take all action that may be allowed by law to recover all of the County's  
18 costs of action including legal services; and

19 (G) Compliance with the agreement will be monitored and  
20 enforced in compliance with the measures included in the agreement.

21 (3) *For-Sale Housing Conditions.* In the case of a for-sale housing  
22 development, the agreement shall provide for the following conditions governing the  
23 initial sale and use of designated dwelling units during the applicable restriction period:

24 (A) Designated dwelling units shall be owner-occupied by  
25 eligible households, or by qualified residents in the case of senior housing; and

26 (B) The initial purchaser of each designated dwelling unit shall  
27 execute an instrument or agreement approved by the County which:

28 (I) Restricts the sale of the unit in compliance with



1 section 83.03.120 (Control of Resale), or other applicable County policy or ordinance,  
2 during the applicable use restriction period;

3 (II) Contains provisions as the County may require to  
4 ensure continued compliance with this Chapter and State law; and

5 (III) Shall be recorded against the parcel containing the  
6 designated dwelling unit.

7 (4) *Rental Housing Conditions.* In the case of a rental housing  
8 development, the agreement shall provide for the following conditions governing the use  
9 of designated dwelling units during the applicable restriction period:

10 (A) The rules and procedures for qualifying tenants, establishing  
11 affordable rent, filling vacancies, and maintaining the designated dwelling units for  
12 qualified tenants;

13 (B) Provisions requiring owners to annually verify tenant  
14 incomes and maintain books and records to demonstrate compliance with this Chapter;

15 (C) Provisions requiring owners to submit an annual report to the  
16 County, which includes the name, address, and income of each person occupying the  
17 designated dwelling units, and which identifies the bedroom size and monthly rent or  
18 cost of each unit; and

19 (D) The applicable use restriction period shall comply with the  
20 time limits for continued availability in section 83.03.080 (Continued Availability).

21 (c) *Execution of Agreement.*

22 (1) Following Board approval of the agreement and execution of the  
23 agreement by all parties, the County shall record the completed agreement on the  
24 parcels designated for the construction of designated dwelling units at the County  
25 Recorder's Office.

26 (2) The approval and recordation shall take place at the same time as  
27 the Final Map or, where a map is not being processed, before issuance of Building  
28 Permits for the designated dwelling units.

(3) The agreement shall be binding on all future owners, developers, and/or successors-in-interest.

**83.03.120 Control of Resale.**

In order to maintain the availability of for-sale affordable housing units constructed in compliance with this Chapter, the following resale conditions shall apply.

(a) *Limits on Resale Price.* The price received by the seller of an affordable unit shall be limited to the purchase price plus an increase based on the Consumer Price Index, an amount consistent with the increase in the median income since the date of purchase, or the fair market value, whichever is less. Before offering an affordable housing unit for sale, the seller shall provide written notice to the County of their intent to sell. The notice shall be provided by certified mail to the Director.

(b) *Units to Be Offered to the County.* Home ownership affordable units constructed, offered for sale, or sold under the requirements of this section shall be offered to the County or its assignee for a period of at least 90 days from the date of the notice of intent to sell is delivered to the County by the first purchaser or subsequent purchasers. Home ownership affordable units shall be sold and resold from the date of the original sale only to households as determined to be eligible for affordable units by the County in compliance with this section. The seller shall not levy or charge any additional fees nor shall any "finder's fee" or other monetary consideration be allowed other than customary real estate commissions and closing costs.

(c) *Declaration of Restrictions.* The owners of any affordable unit shall attach and legally reference in the grant deed conveying title of the affordable ownership unit a declaration of restrictions provided by the County, stating the restrictions imposed in compliance with this section. The grant deed shall afford the grantor and the County the right to enforce the declaration of restrictions. The declaration of restrictions shall include all applicable resale controls, occupancy restrictions, and prohibitions required by this section.

(d) *County to Monitor Resale of Units.* The County shall monitor the resale of

ownership affordable units. The County or its designee shall have a 90-day option to commence purchase of ownership affordable units after the owner gives notification of intent to sell. Any abuse in the resale provisions shall be referred to the County for appropriate action.

**83.03.130 Judicial Relief, Waiver of Standards.**

(a) *Judicial Relief.* As provided by Government Code section 65915(d)(3), the applicant may initiate judicial proceedings if the County refuses to grant a requested density bonus, incentive, or concession.

(b) *Waiver of Standards Preventing the Use of Bonuses, Incentives, or Concessions.*

(1) As required by Government Code section 65915(e), the County will not apply a development standard that will have the effect of precluding the construction of a development meeting the criteria of section 83.03.020(a) (Resident Requirements), above, at the densities or with the concessions or incentives allowed by this Chapter.

(2) An applicant may submit to the County a proposal for the waiver or reduction of development and zoning standards that would otherwise inhibit the utilization of a density bonus on a specific site, including minimum parcel size, side setbacks, and placement of public works improvements.

(3) The applicant shall show that the waiver or modification is necessary to make the housing units economically feasible.

(4) A proposal of the waiver or reduction of development standards pursuant to this subsection shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to section 83.03.050 (Allowed Incentives or Concessions).

(c) *County Exemption.* Notwithstanding the provisions of subsections (a) and (b), above, nothing in this section shall be interpreted to require the County to:

(1) Grant a density bonus, incentive, or concession, or waive or reduce development standards, if the bonus, incentive, concession, waiver, or reduction would

1 have a specific, adverse impact, as defined in Government Code section 65589.5(d)(2),  
2 upon health, safety, or the physical environment, and for which there is no feasible  
3 method to satisfactorily mitigate or avoid the specific adverse impact; or

4 (2) Grant a density bonus, incentive, or concession, or waive or reduce  
5 development standards, if the bonus, incentive, concession, waiver, or reduction would  
6 have an adverse impact on any real property that is listed in the California Register of  
7 Historical Resources.

8  
9 SECTION 6. Severability.

10 The Board of Supervisors declares that it would have adopted this ordinance and  
11 each section, sentence, clause, phrase, or portion of it irrespective of the fact that any  
12 one or more sections, subsections, clauses, phrases or portions of it be declared invalid  
13 or unconstitutional. If for any reason any portion of this ordinance is declared invalid or  
14 unconstitutional, then all other provisions of it shall remain valid and enforceable.

15  
16 SECTION 7. This ordinance shall take effect thirty (30) days from the date of  
17 adoption.

18  
19  
20 \_\_\_\_\_  
CURT HAGMAN, Chairman  
Board of Supervisors

21 SIGNED AND CERTIFIED THAT A COPY  
22 OF THIS DOCUMENT HAS BEEN DELIVERED  
23 TO THE CHAIRMAN OF THE BOARD

24 LYNNA MONELL, Clerk of the  
25 Board of Supervisors  
26 \_\_\_\_\_  
27  
28

1 STATE OF CALIFORNIA )  
2 ) ss.  
3 SAN BERNARDINO COUNTY )

4 I, LYNNA MONELL, Clerk of the Board of Supervisors of San Bernardino County,  
5 State of California, hereby certify that at a regular meeting of the Board of Supervisors  
6 of said County and State, held on the 5<sup>th</sup> day of October, 2021, at which meeting were  
7 present Supervisors: Col. Paul Cook (Ret.), Janice Rutherford, Dawn Rowe, Curt  
8 Hagman, Joe Baca, Jr. and the Clerk, the foregoing ordinance was passed and adopted  
9 by the following vote, to wit:

10 AYES: SUPERVISORS: Col. Paul Cook (Ret.), Janice Rutherford,  
11 Dawn Rowe, Curt Hagman, Joe Baca, Jr.

12 NOES: SUPERVISORS: None

13 ABSENT: SUPERVISORS: None

14 IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official  
15 seal of the Board of Supervisors this 5<sup>th</sup> day of October, 2021.

16 LYNNA MONELL, Clerk of the  
17 Board of Supervisors of  
18 San Bernardino County,  
19 State of California

20 \_\_\_\_\_  
21 Deputy

22 Approved as to Form:

23 MICHELLE D. BLAKEMORE  
24 County Counsel

25 By: \_\_\_\_\_  
26 JOLENA E. GRIDER  
27 Deputy County Counsel

28 Date: \_\_\_\_\_