

**ORDINANCE NO. NS-1200.368**

**AN ORDINANCE OF THE BOARD OF SUPERVISORS  
OF THE COUNTY OF SANTA CLARA ADDING SECTION 4.20.130  
TO TITLE C, APPENDIX I, ZONING, OF THE COUNTY OF  
SANTA CLARA ORDINANCE CODE RELATING TO  
INCLUSIONARY HOUSING FOR THE STANFORD UNIVERSITY  
COMMUNITY PLAN AREA**

Summary

This Ordinance amends the Zoning Ordinance of the County of Santa Clara by creating a new section to ensure the inclusion of affordable housing units within the Stanford University Community Plan Area when market rate housing units are constructed.

**THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CLARA  
FINDS AS FOLLOWS:**

- A. There is a severe shortage of housing in Santa Clara County that is affordable to Extremely Low Income, Very Low, Low, and Moderate Income Households.<sup>1</sup>
- (i) From 2010 to 2017, the population of Santa Clara County increased 8.7% (from 1,781,642 to 1,937,473), but the number of housing units only increased 4.7% (from 631,920 to 661,875).<sup>2</sup>
  - (ii) According to the 2015-2023 Regional Housing Needs Allocation (RHNA) determined by the Association of Bay Area Governments, Santa Clara County had a total housing need of 58,836 units through 2023, which included the need to add 10,636 new Moderate Income, 9,542 new Low Income units, and 16,158 Very Low-Income units within Santa Clara

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<sup>1</sup> See generally County of Santa Clara, *County of Santa Clara Housing Element Update 2015-2022* (June 10, 2014), available at: [https://www.sccgov.org/sites/dpd/DocsForms/Documents/HealthElement\\_2015\\_Adopted\\_Final.pdf](https://www.sccgov.org/sites/dpd/DocsForms/Documents/HealthElement_2015_Adopted_Final.pdf); Association of Bay Area Governments, Planning and Research Department, *Regional Forecast for Plan Bay Area 2040* (Feb. 2016), [http://reports.abag.ca.gov/other/Regional\\_Forecast\\_for\\_Plan\\_Bay\\_Area\\_2040\\_F\\_030116.pdf](http://reports.abag.ca.gov/other/Regional_Forecast_for_Plan_Bay_Area_2040_F_030116.pdf).

<sup>2</sup> State of California, Department of Finance, *E-5 Population and Housing Estimates for Cities, Counties, and the State, 2011-2018 with 2010 Census Benchmark* (May 2018), <http://www.dof.ca.gov/Forecasting/Demographics/Estimates/E-5/>.

County.<sup>3</sup>

- (iii) Because of the shortage of affordable housing units in Santa Clara County, many households overpay for housing. The Harvard Joint Center for Housing Studies compared 2015 home prices and household incomes across 100 metropolitan areas and found that only 22.3 percent of all households in the San Jose-Sunnyvale-Santa Clara metropolitan area (which includes the City of Palo Alto and Stanford University) could afford the typical monthly payments for a median-priced home, and that only 12 percent of renters earn sufficient income to afford payments for a median-priced home in the area — the second lowest proportions of households in each category of the 100 metropolitan areas examined.<sup>4</sup>
- (iv) According to the National Low-Income Housing Coalition's *Out of Reach 2017* study, the San Jose-Sunnyvale-Santa Clara HUD Metropolitan Fair Market Rent Area is the second most expensive metropolitan area in the country to rent.<sup>5</sup> In the 2016 and the 2015 reports, this metropolitan area was, respectively, the third<sup>6</sup> and fourth<sup>7</sup> most expensive area of the nation in which to rent.
- (v) The San Jose-Sunnyvale-Santa Clara metropolitan area had the highest median sales price of existing single-family homes in the nation in 2017 according to data from the National Association of Realtors, with a median price for a single-family detached home of \$1.18 million and a year-over-year price gain of 15.6 percent.<sup>8</sup>

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<sup>3</sup> Association of Bay Area Governments, Final Regional Housing Need Allocation (2015-2023), p. 26 (July 18, 2013), [https://abag.ca.gov/planning/housingneeds/pdfs/2015-2023\\_RHNA\\_Allocations.pdf](https://abag.ca.gov/planning/housingneeds/pdfs/2015-2023_RHNA_Allocations.pdf)

<sup>4</sup> Joint Center for Housing Studies of Harvard University, *Who Can Afford the Median-Priced Home In Their Metro?*, <http://jchs.harvard.edu/son2017-housing-affordability-table>. The San Jose-Sunnyvale-Santa Clara metropolitan area includes the City of Palo Alto and Stanford University.

<sup>5</sup> National Low Income Housing Coalition, *Out of Reach 2017*, p. 11 (2017), p. 11, [http://nlihc.org/sites/default/files/oor/OOR\\_2017.pdf](http://nlihc.org/sites/default/files/oor/OOR_2017.pdf)

<sup>6</sup> National Low Income Housing Coalition, *Out of Reach 2016*, p. 10 (2016), [http://nlihc.org/sites/default/files/oor/OOR\\_2016\\_0.pdf](http://nlihc.org/sites/default/files/oor/OOR_2016_0.pdf)

<sup>7</sup> National Low Income Housing Coalition, *Out of Reach 2015*, p. 10 (2015) [http://nlihc.org/sites/default/files/OOR\\_2015.pdf](http://nlihc.org/sites/default/files/OOR_2015.pdf)

<sup>8</sup> National Association of Realtors, *Median Sales Price of Existing Single-Family Homes for Metropolitan Areas, 2nd Quarter 2018*, p.3, <https://www.nar.realtor/sites/default/files/documents/metro-home-prices-q2-2018-single-family-2018-08-08.pdf>

(vi) According to the 2017 Santa Clara County Homeless Census and Survey, the number of homeless persons in the county is now estimated to be 7,394,<sup>9</sup> an increase of 12.8 percent from 2015 estimates. The County of Santa Clara Office of Supportive Housing reports that the most significant increases in homelessness have been among families and unaccompanied children and youth.

B. Jobs/housing imbalances in various portions of Santa Clara County and throughout the San Francisco Bay Area significantly impact housing availability and affordability and contribute to the severe traffic congestion in Santa Clara County.<sup>10</sup>

(i) One measure of housing imbalance in a region is the ratio of jobs to housing units in the area. The County's General Plan has identified the imbalances between job and housing growth as an important regional issue since the 1960s and with the adoption of the 1980 General Plan. The County of Santa Clara Housing Element Update for 2015-2022 reported that, although there have been fluctuations in the jobs-to-housing ratio as economic conditions changed, an overall imbalance persists.<sup>11</sup>

(ii) According to data from the State of California's Employment Development Department and Department of Finance, from 2010 through 2017 the number of jobs in Santa Clara County increased by 26.3% (from 860,330 to 1,086,900),<sup>12</sup> but the number of housing units only increased by 4.7% (from 631,920 to 661,875).<sup>13</sup> This reflects an increase from 1.36 jobs per housing unit in 2010 to 1.64 jobs per housing unit in 2017. A jobs-housing ratio over 1.5 indicates that the region is likely to experience traffic congestion associated with people coming to jobs from outside the areas, as well as pressure on the cost of available housing in the region.<sup>14</sup>

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<sup>9</sup>Applied Survey Research, Santa Clara County Homeless Census & Survey, p. 1 (2017), [https://www.sccgov.org/sites/osh/ContinuumofCare/ReportsandPublications/Documents/2017%20SCC%20Homeless%20Census%20and%20Survey%20Executive\\_Summary.pdf](https://www.sccgov.org/sites/osh/ContinuumofCare/ReportsandPublications/Documents/2017%20SCC%20Homeless%20Census%20and%20Survey%20Executive_Summary.pdf)

<sup>10</sup> See, e.g., County of Santa Clara, *supra* note 1, at pp. 65-67.

<sup>11</sup> County of Santa Clara, *supra* note 1, at pp. 65-66 (citing Santa Clara County job/housing ratios of 1.5 in 1991, 1.8 in 2001, and 1.3 in 2011).

<sup>12</sup> State of California, Employment Development Department, <http://www.labormarketinfo.edd.ca.gov/data/employment-by-industry.html>

<sup>13</sup> State of California, *supra* note 2, <http://www.dof.ca.gov/Forecasting/Demographics/Estimates/E-5/>

<sup>14</sup> U.S. Environmental Protection Agency, EnviroAtlas, Fact Sheet: Employment to Housing Ratio (Nov. 2014), <https://enviroatlas.epa.gov/enviroatlas/DataFactSheets/pdf/Supplemental/EmploymentHousingRatio.pdf>

- (iii) Data from the 2010 census indicates that significant numbers of people who work in Santa Clara County live outside of the county, including but not limited to: 64,696 from Alameda County; 50,215 from San Mateo County; 19,087 from San Francisco County; 17,451 from Santa Cruz County; 11,526 from Contra Costa County; 7,345 from San Benito County; 4,750 from Monterey County; 4,118 from Merced County; and 2,022 from Sacramento County.<sup>15</sup>
- (iv) The housing supply and affordability concerns that are experienced countywide are particularly acute at and around Stanford University due to the high housing prices in the area around Stanford that result in a small supply of affordable housing. The jobs/housing imbalance that is characteristic of Santa Clara County generally is more acute in the communities that surround Stanford's campus, including Palo Alto and Mountain View, and Menlo Park in San Mateo County. According to projections by the Association of Bay Area Governments (ABAG), the city in Santa Clara County with greatest imbalance between jobs and housing units in 2014 was Palo Alto, with a jobs/housing unit ratio of 3.49.<sup>16</sup> The City of Mountain View had the third highest imbalance of jobs to housing units in the county, with a ratio of 2.37.<sup>17</sup> In 2015, the City of Menlo Park had approximately 2.42 jobs in the city for every housing unit.<sup>18</sup> These local imbalances between jobs and housing acutely affects both the regional housing market and traffic congestion.

C. Due to the shortage of affordable housing units in Santa Clara County, many households are forced to spend a disproportionate share of their income on

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<sup>15</sup> State of California, Employment Development Department, County-to-County Commute Patterns (US Census Bureau) in Santa Clara County, <http://www.labormarketinfo.edd.ca.gov/cgi/databrowsing/localAreaProfileQSMOREResult.asp?viewAll=yes&viewAllUS=&currentPage=&currentPageUS=&sortUp=G1.AREANAME&sortDown=&criteria=commuting+patterns&categoryType=population+census+data&geogArea=0604000085&timeseries=&more=More&menuChoice=localAreaPro&printerFriendly=&BackHistory=-4&goTOPageText=>

<sup>16</sup> Local Agency Formation Commission of Santa Clara County, *Cities Service Review*, p. 7 (Dec. 2015), [http://www.santaclaralafco.org/file/ServiceReviews/CitiesSR2015/2CSRR\\_ExecSumm.pdf](http://www.santaclaralafco.org/file/ServiceReviews/CitiesSR2015/2CSRR_ExecSumm.pdf)

<sup>17</sup> *Ibid.*

<sup>18</sup> City of Menlo Park, *Facebook Campus Expansion Project, Draft Environmental Impact Report*, pp. 3.12-5 – 3.12-6 (31,920 jobs/13,180 housing units) (May 2016), [https://www.menlopark.org/DocumentCenter/View/10293/Ch03-12\\_PopulationHousing\\_Draft-EIR](https://www.menlopark.org/DocumentCenter/View/10293/Ch03-12_PopulationHousing_Draft-EIR)

housing, thereby restricting the funds available to meet their other basic needs and reducing their spending on other vital goods and services.<sup>19</sup>

- D. Given the shortage of affordable housing units in Santa Clara County, there is an urgent need to encourage the construction of housing that is affordable to families and individuals and to otherwise increase the affordable housing supply in Santa Clara County.
- E. The housing supply and affordability concerns that are experienced countywide have a particularly strong effect at and around Stanford University due to the high housing prices in the area and the employment opportunities generated by Stanford. New residents of market-rate housing, including faculty and staff housing within the Stanford Community Plan Area, creates demand for new public and private sector workers. Some of these new workers earn incomes that are only adequate to pay for affordable housing. Because affordable housing is in short supply in the Stanford Community Plan Area and environs, such new workers may be forced to live in less than adequate housing in the area, pay a disproportionate share of their incomes for housing, or commute long distances to their jobs from housing located in more affordable parts of the county or outside of the region entirely.<sup>20</sup>

**THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CLARA  
ORDAINS AS FOLLOWS:**

SECTION 1. Appendix I, Zoning, of Title C, is hereby amended to add Section 4.20.130 to Chapter 4.20 of Article 4 to be titled and to read as follows:

**§ 4.20.130 Inclusionary Housing for the Stanford University Community Plan Area**

- A. **Purpose and Intent.** The purpose and intent of this section are as follows:
  - 1. Construction of affordable units as well as market-rate units within the Stanford Community Plan is consistent with the County's Housing Element goals of protecting the public welfare by fostering an adequate supply of housing for persons at all economic levels. Requiring the development of affordable housing units in new market rate residential development in the Stanford Community Plan Area will provide affordable housing, which will

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<sup>19</sup> Legislative Analyst's Office, *California's High Housing Costs Causes and Consequences* (March 17, 2015), pp. 24-26, <http://www.lao.ca.gov/reports/2015/finance/housing-costs/housing-costs.pdf>.

<sup>20</sup> All materials supporting these findings and cited herein are on file with the Clerk of the Board, County of Santa Clara.

relieve the burden placed on the housing market in the surrounding area. Flexibility to build units outside of the Stanford Community Plan Area will provide additional housing units to lower income households in the community, further relieving the burden on the housing market. Provision of additional housing within the Stanford Community Plan will also help the County reach its regional share of housing needs and implement the goals and objectives of the General Plan, Housing Element, and the Stanford Community Plan.

2. The adoption of a Stanford Community Plan-specific inclusionary housing program will also assist in alleviating the use of available designated residential land in the Stanford Community Plan Area being used primarily for the benefit of households that are able to afford market rate housing because all housing development will be required to contribute to the provision of affordable rental housing in the Community Plan area, and will assist in alleviating the impacts of the service needs of market rate households in the Stanford Community Plan area. Additional housing provided outside of the Community Plan area will further relieve the pressure on the local housing market.
3. This Section 4.20.130 is adopted pursuant to the County's police power authority to protect the public health, safety, and welfare.

**B. Definitions.**

In addition to the definitions in Chapter 1 of Division A1 of this Code, the following definitions shall apply and shall supersede the definitions in Section 1.30.030 of this Zoning Ordinance:

1. **Affordable Housing Cost:** The affordable rent for rental units shall be as defined by California Health and Safety Code section 50053, as applicable.
2. **Affordable Housing Plan:** The plan for meeting the inclusionary housing requirements of this Section that is submitted as part of an application for a Planning Permit for a Residential Development and further described in subsection K (Affordable Housing Plan and Inclusionary Housing Agreement).
3. **Applicant:** One or more person(s) or entity(ies) that applies for a Residential Development within the Stanford Community Plan area regardless of whether the person(s) or entity(ies) have an ownership or leasehold interest in the property on which the development is proposed.

4. **Area Median Income or AMI:** The annual median income for Santa Clara County, adjusted for household size, as published periodically in the California Code of Regulations, Title 25, Section 6932, or its successor provision.
5. **Building Permit:** The full structural building permits or partial permits (i.e., foundation-only permits).
6. **Certificate of Occupancy:** The final inspection approval of the Building Inspection Office on the building permit inspection card for a complete building or structure.
7. **County Executive:** The County Executive or designee.
8. **Dwelling Unit:** A building or portion thereof that is designed, intended or used for dwelling purposes for one household, but shall not include Student Housing.
9. **Extremely Low Income Household:** A household as defined in California Health and Safety Code section 50106.
10. **For Sale:** Any Dwelling Unit, including a condominium, stock cooperative, community apartment, or attached or detached single-family home, for which a parcel or tentative and final map is required for the lawful subdivision of the parcel upon which the Dwelling Unit is located or for the creation of a unit in accordance with the Subdivision Map Act (California Government Code section 66410 *et seq.*) or any Residential Development that includes such a For Sale Dwelling Unit.
11. **Inclusionary Housing Guidelines:** The requirements for implementation and administration of this Section adopted by the Planning Commission.
12. **Inclusionary Unit:** A Dwelling Unit required by this Section to be affordable to Extremely Low, Very Low, Lower, or Moderate Income Households.
13. **Lower Income Households:** Households as defined in California Health and Safety Code section 50079.5.
14. **Market Rate Unit:** A new Dwelling Unit in a Residential Development that is not an Inclusionary Unit as defined by this Section, or a Dwelling Unit subject to a long-term affordability agreement, regulatory agreement or deed restriction ensuring affordability, that will expire within one year are Market Rate Units for the purposes of this Section.

15. **Moderate Income Household:** A household as defined in California Health and Safety Code section 50093(b).
16. **Operative Date:** The initial operative date of this Section, which is July 1, 2019.
17. **Planning Permit:** A tentative map, parcel map, use permit, single building site approval, architecture and site approval, cluster development permit, development agreement, special use permit, or any other discretionary permit. Does not include General Plan and specific plan amendments, zoning ordinances and amendments, area development policies, or the General Use Permit as described in the Stanford Community Plan.
18. **Rental:** A Dwelling Unit that is not a For Sale Dwelling Unit. Does not include any Dwelling Unit, whether offered for rental or for sale, that may be sold as the result of the lawful subdivision of the parcel upon which the Dwelling Unit is located in accordance with the Subdivision Map Act.
19. **Residential Development:** Any development that would create three (3) or more new, additional, or modified Dwelling Units by any of the following means or combination thereof:
  - a. The construction of new Dwelling Units, including additions to existing structures;
  - b. The conversion of a use to residential from another use;
  - c. The conversion of a use to For Sale residential from a Rental residential use;  
or
  - d. The subdivision of land to develop residential Dwelling Units.
20. **Student:** A matriculated undergraduate or graduate student of Stanford University, but shall not include postdoctoral fellows.
21. **Student Housing:** Housing provided solely to Students, including but not limited to dormitories, apartments, family student housing, graduate student housing, and other housing provided to matriculated students of Stanford University, but shall not include any housing provided for postdoctoral fellows.
22. **Very Low Income Household:** A household earning no more than the amount defined by California Health and Safety Code section 50105.



C. **Applicability.** The provisions of this Section shall apply to all Residential Development in the Stanford Community Plan area, except for any Residential Development exempt under subsection D (Exemptions) of this Section.

D. **Exemptions.** This Section shall not apply to any of the following:

1. Projects that are not Residential Developments.
2. Projects proposing the development or alteration of one single family home or duplex.
3. Any Residential Development project with an application that was deemed complete pursuant to Section 5.20.080 of this Code prior to the Operative Date of this Section.
4. Reconstruction of Residential Development that was destroyed by fire, flood, earthquake, or other act of nature, so long as the square footage does not exceed the same square footage before the loss.

E. **On-Site Inclusionary Housing Requirement.**

1. Unless otherwise exempted, all new Residential Development shall include Inclusionary Units, as follows:

a. **Rental Residential Development.** Sixteen percent (16%) of the total Dwelling Units in any Rental Residential Development shall be made available for rent at an Affordable Housing Cost. Of the total number of Inclusionary Units provided, 15% shall be affordable to Extremely Low or Very Low Income Households, 45% shall be affordable to Low Income Households, and 40% shall be affordable to Moderate Income Households.

b. **For Sale Residential Development.** Sixteen percent (16%) of the total Dwelling Units in the For Sale Residential Development shall be made affordable using one of the following methods:

(i) Inclusionary Units in a For Sale Residential Development may be made available for purchase at an Affordable Housing Cost to those households earning no more than one hundred twenty percent (120%) of the Area Median Income; or

(ii) Required Inclusionary Units in a For Sale Residential Development may be banked as provided and developed as Rental Inclusionary Units pursuant to the Inclusionary Housing Guidelines.

2. Where the calculation of required Inclusionary Units results in a fraction, the on-site requirements shall be the number of Inclusionary Units required, rounded down to the nearest whole number. Fractional units shall accrue as provided in the Inclusionary Housing Guidelines.

**F. Timing of Construction of Inclusionary Units.** All required on-site Inclusionary Units shall be made available for occupancy concurrently with the first Market Rate Units in the Residential Development. The County shall not issue Building Permits for Market Rate Units except where Building Permits for Inclusionary Units are included in the application. A Certificate of Occupancy shall not be issued for Market Rate Units except where a Certificate of Occupancy for Inclusionary Units are issued concurrently in the required inclusionary proportion specified in subsection E.1.

**G. Additional Standards for Inclusionary Units.** Inclusionary Units shall be similar in quality and design to the Market Rate Units in the Residential Development and shall meet all site, design and construction standards in this Code and the Inclusionary Housing Guidelines.

**H. Options for Compliance.**

1. **On-Site.** An Applicant may construct on-site Inclusionary Units in the Residential Development as described in subsection E (On-Site Inclusionary Housing Requirement).
2. **Transfers within the Stanford Community Plan Area.** Subject to notification to the County Executive, an Applicant may transfer required Inclusionary Units to another Residential Development within the Stanford Community Plan area.
3. **Off-Site.** As an alternative to providing Inclusionary Units within the Stanford Community Plan area, the Applicant may develop Inclusionary Units at another location within a six-mile radius of the Stanford Community Plan area. If the Applicant constructs the Inclusionary Units off-site, the number of Inclusionary Units required shall be at least sixteen percent (16%) of the combined number of market-rate Dwelling Units in the on-site Residential Development plus the off-site Inclusionary Units. These units shall be in addition to any Inclusionary Units required or agreed to by Applicant in another jurisdiction.

4. **Conversion of Existing Units.** The inclusionary housing requirement may be satisfied by the conversion of existing Market Rate Units, whether currently owned by the Applicant or proposed to be acquired, to units affordable to Very Low or Lower Income Households only, if the County Executive determines that all of the following criteria are met:
- a. Two converted units must be provided for each required Inclusionary Unit in the Residential Development. These units shall be in addition to any Inclusionary Units required by another jurisdiction as a result of rehabilitating the existing units.
  - b. The converted Inclusionary Units shall comply with the site, design, and construction standards provided in the Inclusionary Housing Guidelines, and Applicant shall comply with the notice and relocation requirements in the Inclusionary Housing Guidelines before commencing rehabilitation.
  - c. The conversion of the Dwelling Units shall be completed prior to or concurrently with the Market Rate Residential Development pursuant to subsection F (Timing of Construction of Inclusionary Units).

I. **Combination of Methods to Provide Inclusionary Housing.** The Applicant for a Residential Development may propose any combination of basic inclusionary options pursuant to subsection H (Options for Compliance) of this Section. Such proposals shall be made in the Affordable Housing Plan and shall be considered by the County in accordance with this Ordinance and the Inclusionary Housing Guidelines. The County Executive may approve the Affordable Housing Plan if the combined methods of compliance provide substantially the same or greater level of affordability and the total amount and type of affordable housing provided is the same or greater than that required by this Section.

J. **Continuing Affordability and Occupancy.** Inclusionary Units shall be subject to an agreement with the County to ensure the long-term affordability of the Dwelling Units pursuant to the Inclusionary Housing Guidelines. Inclusionary Units shall remain affordable to the targeted income group for no less than fifty-five (55) years. A longer term of affordability may be required if the Residential Development receives a subsidy pursuant to a subsidy program that requires a longer term of affordability. Households occupying an Inclusionary Unit shall be screened for income-eligibility pursuant to the Inclusionary Housing Guidelines, and shall be subject to the occupancy requirements therein.

K. **Affordable Housing Plan and Inclusionary Housing Agreement.** An Affordable Housing Plan shall be submitted as part of the application for a Planning

Permit for a Residential Development or as otherwise specified in the Planning Permit. The Affordable Housing Plan shall provide any information required by the Inclusionary Housing Guidelines. The County Executive shall approve the Affordable Housing Plan if it conforms to the provisions of this Section and the Inclusionary Housing Guidelines. The Board of Supervisors may establish fees by resolution for the ongoing administration and monitoring of the Inclusionary Units, which fees may be updated periodically.

**L. Monitoring of Compliance.** The Inclusionary Housing Guidelines shall include provisions for the monitoring by the County of Inclusionary Units for compliance with the terms of this Section and the Inclusionary Housing Guidelines.

**M. Waiver.**

1. Notwithstanding any other provision of this Section, one or more of the requirements of this Section may be waived, adjusted, or reduced if an Applicant shows, based on substantial evidence, that the application of such requirement(s) would effect a taking of property under the United States or California constitution or otherwise violate any other federal or state law.
2. Any request for a waiver, adjustment or reduction of one or more of the requirement(s) of this Section shall be submitted to the County concurrently with the Affordable Housing Plan required by subsection K (Affordable Housing Plan and Inclusionary Housing Agreement) of this Section. The request for a waiver, adjustment, or reduction shall set forth in detail the factual and legal basis for the claim.
3. The request for a waiver, adjustment, or reduction shall be reviewed and considered in the same manner and at the same time as the Affordable Housing Plan is considered.
4. In making a determination on an application for waiver, adjustment, or reduction, the Applicant shall bear the burden of establishing that the waiver, adjustment, or reduction is necessary to avoid a taking of property or violation or federal or state law.
5. The waiver, adjustment, or reduction may be approved by the County Executive only to the extent necessary to avoid an unconstitutional or unlawful result, and after adoption of written findings, based on substantial evidence, supporting the determinations required by this Section.

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**N. Implementation and Enforcement.**

1. The Planning Commission shall adopt Inclusionary Housing Guidelines to assist in the implementation and administration of all aspects of this Section. The Planning Commission's action to adopt the Inclusionary Housing Guidelines shall be a final action.
2. The County Executive shall periodically evaluate the effectiveness of the ordinance codified in this Section, for review by the Planning Commission and the Board of Supervisors.
3. The County Counsel shall be authorized to enforce the provisions of this Section and any agreements entered into pursuant to this Section, by civil action or any other proceeding or method permitted by law. The County Counsel, in his or her discretion, may take such enforcement action as is authorized under this Code and/or take any other action authorized by law or any agreement, covenant, restriction, condition, or regulatory document executed pursuant to this Section.
4. The remedies provided for herein shall be cumulative and not exclusive and shall not preclude the County from pursuing or obtaining any other remedy or relief to which it would otherwise be entitled under law or equity.

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SECTION 2. The operative date of this ordinance shall be July 1, 2019.

**PASSED AND ADOPTED** by the Board of Supervisors of the County of Santa Clara, State of California, on \_\_\_\_\_ by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
S. JOSEPH SIMITIAN, President  
Board of Supervisors

Signed and certified that a copy of this document has been delivered by electronic or other means to the President, Board of Supervisors.

ATTEST:

\_\_\_\_\_  
MEGAN DOYLE  
Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGALITY:

  
\_\_\_\_\_  
ELIZABETH G. PIANCA  
Lead Deputy County Counsel

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