Chapter 22.35 AFFORDABLE HOUSING

## 22.35.010 Purpose.

A. It is a public purpose of the County and a policy of the State to achieve a diverse and balanced community with housing available for households of all income levels. The County is experiencing an increasing shortage of housing affordable to extremely low, very low and low income households. Because of the dwindling supply of land and the increasing cost of development, new residential development does not always provide housing for these economic groups. The consumption of the County's remaining developable land for residential development without providing housing affordable to persons of all income levels works in opposition to the County's housing policies. Scarce remaining opportunities for affordable housing will be lost and extremely low, very low, and low income families who work in the County will be unable to find affordable housing.

B. Housing Element Policy HE-45 provides that the County will adopt an affordable housing program within six months of adoption of the Housing Element that will require fifteen (15) percent of new residential development to be affordable to extremely low, very low and low income households.

C. The Legislature of the State of California has found that the lack of affordable housing is a critical problem which threatens the economic, environmental and social quality of life in California.

D. To implement Policy HE-45, to carry out the policies of the State of California, to achieve the benefits of economic diversity for the residents of the County and to assist in making affordable housing available in the County for all income levels, it is essential that new residential development contain housing opportunities to households of extremely low, very low and low income, and that the County provide a regulatory and incentive framework which provides opportunities for development of a supply and mix of new housing to meet the future housing needs of all income segments of the community.

E. The Board of Supervisors finds and determines that the above purposes can be reasonably met by requiring that fifteen (15) percent of all units in a new residential development project are affordable, as provided in Section 22.35.030. The Board of Supervisors further finds and determines that there is a reasonable relationship between the construction of a development project that does not meet Section 22.35.030's fifteen (15) percent requirement, and the in lieu and affordability fees option that certain development projects may pay as an alternative to meeting that requirement, since those fees will be used to pay for off-site affordable housing in lieu of the on-site affordable housing. Based upon documents and testimony presented to the Board, and calculations by the Planning and Community Development Department and Sacramento Housing and Redevelopment Agency, the Board further finds and determines that there is a reasonable relationship between the number of affordable units that would have been constructed on-

site if a development met Section 22.35.030's fifteen (15) percent requirement, and the cost of building an equivalent number affordable units at an off-site location.

F. The Board of Supervisors finds and determines that, based upon the above purposes and findings, there is a reasonable relationship between the need for affordable housing and the type of development projects which may meet their affordable obligation pursuant to this chapter by payment of in lieu and affordability fees. (SCC 1306 § 1, 2005: SCC 1291 § 1 (part), 2005)

## 22.35.020 Definitions.

"Acreage credit" means the value of excess affordable housing acreage that may be bought or sold in accordance with Section 22.35.070(D).

"Adjacent" means contiguous at any point, or separated only by a public or private street, road, or other public or private right of way.

"Affordable" means rented at an affordable rent or sold at an affordable housing price.

"Affordable housing component" means the affordable housing units included in or provided by a development project as specified in this chapter.

"Affordable housing developer" means the developer who constructs the affordable units required by this chapter.

"Affordable housing plan" means the plan described in Section 22.35.140 setting forth the elements of a development project's affordable housing component and the manner in which the affordable housing component will be implemented.

"Affordable housing price" means a sales price at which low income, very low income or extremely low income households can qualify for the purchase of for-sale affordable units. Qualification shall be based on no more than thirty-five (35) percent of income at eighty (80) percent, fifty (50) percent, and thirty (30) percent of the median income applicable to Sacramento County, respectively for low income, very low income and extremely low income households, being applied to housing expenses, which shall include mortgage principal and interest, taxes, insurance, assessments, and homeowner fees, as applicable.

"Affordable housing unit" or "affordable unit" means an ownership or rental dwelling unit developed as a part of the affordable housing component.

"Affordable obligation" means the obligation set forth in Section 22.35.030.

"Affordable rent" means: (1) for a unit whose occupancy is restricted to low income households, a monthly rent consisting of a maximum of one-twelfth of thirty (30) percent of eighty (80) percent of the median income applicable to Sacramento County; (2) for a unit whose occupancy is restricted to a very low income household, a monthly rent consisting of a maximum of one-twelfth of thirty (30) percent of fifty (50) percent of the median income applicable to Sacramento County; and (3) for a unit whose occupancy is restricted to an extremely low income household, a monthly rent consisting of a maximum of one-twelfth of thirty (30) percent of thirty (30) percent of the median income applicable to Sacramento County, or, when applied to units produced pursuant to the State of California Multifamily Housing Program, means a monthly rent consisting of a maximum of one-twelfth of thirty (30) percent of thirty-five (35) percent of the median income applicable to Sacramento County. In all cases the median income applicable to Sacramento County is as determined annually by the United States Department of Housing and Urban Development. Maximum rent is adjusted for household size appropriate to the unit, less a reasonable allowance for utilities, as published in SHRA guidelines.

"Buy-down program" is a program whereby the Sacramento Housing and Redevelopment Agency subsidizes the difference in price between a very low income unit and an extremely low income unit.

"Construct" means to build or cause to be built.

"County" means the County of Sacramento.

"Developer" means any person, firm, partnership, association, joint venture, corporation, or any entity or combination of entities that seeks County's approvals for all or part of a development project. "Developer" includes "owner."

"Development project" means any real estate development project in the unincorporated County that includes residential units. Projects at one location developed by the same owner or developer undertaken in phases, stages or otherwise developed in distinct sections shall be considered a single development project for purposes of this section. "Development project" includes units and acreage associated with the affordable housing component.

"Donor site" means the development project within which excess affordable housing acreage is dedicated.

"Dwelling unit" means a residential unit within a development project.

"ELI" means extremely low income.

"ELI competitive" means land meeting the criteria specified in Section 22.35.070(A)(1).

"Excess affordable housing acreage" means ELI competitive land dedicated to SHRA at no cost over and above that which would be required under Section 22.35.070(D).

"External subsidy" means any source of funds that is not local public funding, including federal or state grants, loans, bond funds, tax credits or other tax-based subsidy.

"Extremely low income household" means a household whose income does not exceed thirty (30) percent of the median income, adjusted for household size, applicable to Sacramento County, as published and periodically updated by the United States Department of Housing and Urban Development pursuant to Section 8 of the United States Housing Act of 1937, or, when applied to units produced pursuant to the State of California Multifamily Housing Program, means a household whose income does not exceed thirty-five (35) percent of the median income, adjusted for household size, applicable to Sacramento County as published and periodically updated by the United States Department of Housing and Urban Development pursuant to Section 8 of the United States Housing Act of 1937.

"First-time homebuyer" means that neither the purchaser nor the purchaser's spouse has owned a home during the past three years, or that the purchaser meets at least one of the following criteria:

1. The purchaser is a displaced homemaker, defined as a person who has not worked full-time for a number of years, worked primarily without remuneration to care for the home and family, is unemployed or underemployed, is experiencing difficulty in obtaining or upgrading employment, and, while a homemaker, owned a home with a previous spouse or registered domestic partner as defined by state law;

2. The purchaser is single (unmarried or legally separated), has one or more minor children of whom purchaser has custody, and, while previously married or in a registered domestic partner relationship, owned a home with a previous spouse or domestic partner; or

3. The purchaser owns or owned as a principal residence during the past three years, a dwelling unit which structure is not permanently affixed to a permanent foundation in accordance with the County Code, or is not and cannot be brought into compliance with County Code for less than the cost of replacing the structure.

"Gross" area is the residential area of the property including streets, highways, roads, and alleys but not including public parks, public schools, public open space areas, habitat mitigation areas resulting from federal, state, or local requirements or other similar public non-residential features.

"Initial owner" means the first household to purchase a new for-sale affordable unit as its primary residence.

"Local public funding" means loans and grants from the housing trust fund, federal HOME Investment Partnership Program ("HOME") funds and Community Development Block Grant program, redevelopment area tax increment housing set-aside funds, and other funds originating from or administered by SHRA or the County.

"Low income household" means a household whose income does not exceed eighty (80) percent of median income applicable to Sacramento County, adjusted for family size as published and annually updated by the United States Department of Housing and Urban Development pursuant to Section 8 of the United States Housing Act of 1937.

"Market rate" means not restricted to an affordable housing price or affordable rent.

"Market rate developer" means the developer who constructs the market rate units.

"Mobilehome park" has the same meaning as set forth in Zoning Code Section 130-126 or any successor section.

"Multifamily" means residential units planned, approved, or built on land planned or zoned for other than single-family residential.

"Net" has the same meaning as "net lot area" as defined in Zoning Code Section 130-112 or any successor section.

"Net buildable land" means land that can accommodate residential construction and is calculated exclusive of: (1) existing or proposed public and private streets, highways, roads and alleys, or proposed street and highways as shown on the Circulation Plan, General Plan or community plan; and (2) existing or proposed public utility easements in excess of 12.5 feet in width.

"Newly-created multifamily site" means a site that that was not zoned for multifamily housing prior to submission of the application for the development project, or a site in the North Vineyard Station Specific Plan that was rezoned for multifamily housing prior to and in anticipation of this ordinance.

"Non-ELI competitive land" means land meeting the criteria specified in Section 22.35.070(A)(2).

"Off-site" means outside of the boundaries of a development project but within the same specific or comprehensive plan (or community plan if there is no specific or comprehensive plan) or within a one-mile radius from any point in the development project.

"One location" means all adjacent land owned or controlled by the same owner or developer, a related owner, or more than one owner in a single application, the property lines of which are contiguous at any point, or the property lines of which are separated only by a public or private street, road, or other public or private right-of-way.

“On-site” means within the boundaries of, or contiguous to, a development project.

“Owner” means and includes the person, persons, partnership, joint venture, association, corporation, or public or private entity having sufficient proprietary interest in real property to commence, maintain, and operate a development project.

“Percent” means a one-hundredth part. In applying percentages referred to in this chapter, any portion of a percent less than one-half shall be disregarded and any portion of a percent one-half or greater shall be rounded up to the next whole number.

“Project level approvals” means a tentative subdivision map, a rezone, a use permit including use permit for a condominium conversion, a development plan review or a special development permit.

“Regulatory agreement” means the written agreement incorporating elements of the affordable housing plan, including rental, sale, and occupancy restrictions that will be recorded as a lien on the residential development or affordable housing component as specified in this chapter.

“Residential project” means the entirety of a residential development with market rate units in a development project.

“SHRA” means the Sacramento Housing and Redevelopment Agency, a joint powers agency.

“Single-family” means planned, approved or built on land planned or zoned solely for a permitted residential density of one unit per parcel. Where such a planning or zoning single-family designation also allows by right or as a conditional use duplexes, halfplexes, second units, or similar uses, the designation is nonetheless considered single-family residential for purposes of the affordable housing component and the other provisions of this chapter.

“Substantial rehabilitation” means rehabilitation of vacant uninhabitable residential units such that they are habitable, or rehabilitation of a non-residential building into residential units.

“Very low income household” means a household whose income does not exceed fifty (50) percent of the median income, adjusted for household size, applicable to Sacramento County, as published and periodically updated by the United States Department of Housing and Urban Development pursuant to Section 8 of the United States Housing Act of 1937. (SCC 1365 § 1, 2007: SCC 1306 § 2, 2005: SCC 1302 § 1, 2005: SCC 1291 § 1 (part), 2005)

## 22.35.030 Standard Affordable Housing Component.

Development projects seeking project level approval for five or more dwelling units shall include or provide for an affordable housing component as set forth in this chapter. Not less than fifteen (15) percent of the development project's dwelling units shall be units leased or sold at an affordable rent or affordable housing price to low, very low and extremely low income households as follows: six percent of the dwelling units shall be affordable to and occupied by low income households, six percent of the dwelling units shall be affordable to and occupied by very low income households, and three percent of the dwelling units shall be affordable to and occupied by extremely low income households. (SCC 1291 § 1 (part), 2005)

## 22.35.040 Exempted Development Projects.

The following development projects are exempt from this chapter and generate no affordable housing obligation:

A. Development projects proposed to contain four or fewer residential dwellings at one location;

B. Conversion of non-residential buildings to residential use;

C. Dwelling units produced as a density incentive pursuant to Section 22.35.090(A)(1) or as a density bonus pursuant to Zoning Code, Title 1, Article 10;

D. Mobilehome parks;

E. Development projects that have submitted an application no later than August 17, 2004 and that consist of fewer than ten (10) gross acres or fewer than fifty (50) dwelling units, except that all development projects seeking project level approval for five or more dwelling units within Florin-Vineyard Gap, and Vineyard Springs, North Vineyard Station, East Antelope, and Elverta specific or comprehensive plan areas shall be subject to the provisions of this chapter.

F. Market rate units in a mixed-income development on a newly created multifamily site located onsite where at least fifty (50) percent of the units meet the development project's affordable obligation.

G. Condominium conversion projects where the prior rental development project met its affordable obligation under this ordinance by means other than inclusion of on-site rental units. (SCC 1306 § 3, 2005: SCC 1302 § 2, 2005: SCC 1291 § 1 (part), 2005)

## 22.35.045 Modified Application of Chapter.

A. Specific Plans, Comprehensive Plans, and Land Use Master Plans associated with a Special Planning Area. Specific plan areas or comprehensive plans adopted after December 8, 2004 or land use master plans associated with a special planning area may comply with the requirements of this chapter through a comprehensive affordable housing plan that substantially complies with the requirements of this chapter. The comprehensive affordable housing plan shall be approved by the Board of Supervisors as part of the specific plan or land use master plan approval and shall contain the following:

1. Evidence that the intent of HE-45 and this chapter to provide fifteen (15) percent of new residential development to be affordable to extremely low, very low and low income households will be met through the comprehensive affordable housing plan;

2. Description of how the comprehensive affordable housing plan will address the requirements of concurrency as contained in Section 22.35.060; unit size, location, and quality as contained in Section 22.35.100; accessibility as contained in Section 22.35.110; affordability as contained in Section 22.32.120; and occupancy as contained in Section 22.35.100.

3. Description of incentives that may be requested;

4. Description of how the comprehensive affordable housing plan will be implemented, including timeframes and monitoring.

B. Projects.

1. In applying the ordinance to sites in the North Vineyard Station Specific Plan that were rezoned for multifamily housing prior to and in anticipation of this ordinance, this chapter is modified as follows:

a. The three multifamily sites identified by the Board during the final hearings on the Specific Plan may be considered on-site to the remainder of the development project when meeting the project’s affordable obligation.

b. For development projects that have received their entitlement approval prior to December 8, 2004 but are subject to this ordinance, the affordable housing plan must identify concurrency requirements equivalent to those contained in Section 22.35.060(B), except that all land use entitlements, including development plan review for the affordable development proposed on the dedicated site must be met prior to the issuance of the first building permit for the development project.

c. The affordable obligation of the three multifamily sites identified by the Board during the final hearings on the Specific Plan shall be calculated at RD-7 zoning rather than at the multifamily zoning density as required by Section 22.35.070(B)(2).

d. Pursuant to approval by the final hearing body, the maximum site size may be increased to 11.5 net acres in any one location.

e. Pursuant to approval by the final hearing body, an applicant may request that the net buildable land area include utility easements in excess of 12.5 feet in width. (SCC 1306 § 4, 2005: SCC 1302 § 3, 2005)

## 22.35.050 Options to Meet Affordable Requirement.

A. If land within a proposed development project subject to this chapter is determined to be suitable pursuant to Section 22.35.070, the developer shall be in compliance with this chapter if the developer does one of the following:

1. Dedicates a site as follows:

a. Dedicates an ELI competitive site identified as suitable within the development project to SHRA at no cost per the formula set forth in Section 22.35.070(B) and pays an affordability fee pursuant to Section 22.35.080(B)(1);

b. Dedicates an ELI competitive site within the development project to SHRA at no cost per the formula set forth in Section 22.35.070(B) and also sells to SHRA additional land within the development project, the resulting acreage of which meets the site suitability standards set forth in Section 22.35.070(A)(1), and pays an affordability fee pursuant to Section 22.35.080(B)(4) ;

c. Dedicates a site pursuant to subsection (A)(1) of this section, and donates excess affordable housing acreage in accordance with Section 22.35.070(D), and pays an affordability fee pursuant to Section 22.35.080(B)(1) on the site dedicated pursuant to subsection (A)(1) of this section;

d. Dedicates a non-ELI competitive site identified as suitable within the development project as set forth in Section 22.35.070(A)(2) to SHRA at no cost per the formula set forth in Section 22.35.070(B), and pays an affordability fee pursuant to Section 22.35.080(B)(1);

e. Dedicates a site identified as suitable within the development project as set forth in Section 22.35.070(A)(3) and pays an affordability fee pursuant to Section 22.35.080(B)(1);or

2. Constructs ten (10) percent of the dwelling units at an affordable rent for very low income households and five percent of the dwelling units at an affordable rent for low income households. The developer shall make no less than twenty (20) percent of the units meeting an affordable obligation available for the ELI buy-down program pursuant to Section 22.35.065.

B. If no land within a proposed development subject to this chapter is determined to be suitable pursuant to Section 22.35.070(A), the developer shall be in compliance with this chapter if the developer:

1. Constructs fifteen (15) percent of the dwelling units as affordable units on-site and/or off-site in one of the following ways. Any off-site location is considered part of the development project and thus has its own affordable obligation.

a. Constructs fifteen (15) percent of the dwelling units at an affordable housing price for sale to low income households, or

b. Constructs ten (10) percent of the units at an affordable rent for very low income households and five percent of the dwelling units at an affordable rent for low income households. The developer shall make no less than twenty (20) percent of the units meeting an affordable obligation available for the ELI buy-down program pursuant to Section 22.35.065.

2. Dedicates a site in one of the following ways:

a. Dedicates off-site land to SHRA at no cost pursuant to Section 22.35.070(C) and pays an affordability fee pursuant to Section 22.35.080(B);

b. Dedicates off-site land to SHRA at no cost pursuant to Section 22.35.070(C), dedicates excess affordable housing acreage, and pays an affordability fee pursuant to Section 22.35.080(B)(1). Any off-site location is considered part of the development project and thus has its own affordable obligation.

3. Obtains acreage credits in accordance with Section 22.35.070(D) sufficient to meet the entire affordable housing obligation and pays an affordability fee pursuant to Section 22.35.080(B)(1);

4. Obtains either for sale or rental unit credits in accordance with Section 22.35.075; or

5. Pay in-lieu and affordability fees pursuant to Section 22.35.080 for projects as follows:

a. For land zoned RD-1 to RD-10, a development project of more than twenty (20) units and less than one hundred (100) units; or

b. For land zoned at densities above RD-10, or for land zoned LC, SC or BP, a development project of more than twenty (20) units and less than one hundred (100) units.

c. Land zoned RD-1 to RD-10 that is outside of a comprehensive or specific plan area of: (i) more than twenty (20) units; and (ii) less than one hundred (100) units and/or less than twenty (20) gross acres.

C. In all cases, if the development project consists of twenty (20) or fewer units or is proposed on land zoned agricultural, agricultural-residential, the developer shall be in compliance with this chapter if the developer pays in-lieu and affordability fees pursuant to Section 22.35.080(C).

D. In all cases, the developer shall be in compliance with this chapter if the developer constructs affordable units on site to the development project in the percentages set forth in Section 22.35.030. (SCC 1365 § 2, 2007: SCC 1306 § 5, 2005: SCC 1302 § 4, 2005: SCC 1291 § 1 (part), 2005)

## 22.35.060 Concurrence.

The affordable housing plan shall include a phasing plan that provides for the timely development of the affordable housing component as the residential project is built out.

A. When the affordable obligation is met through construction, the phasing plan shall provide for the development of the affordable units concurrently with the market rate units. The affordable housing plan may deviate from this requirement only due to the phasing of infrastructure improvements or other development conditions impacting phasing, but in no event shall building permits be issued for more than seventy-five (75) percent of the market rate units prior to the issuance of permits for one hundred (100) percent of the affordable units.

B. When the affordable obligation is met through land dedication, concurrency shall be met in one of the following ways.

1. All land use entitlements, including development plan review for the affordable development proposed on the dedicated site, must be obtained prior to recordation of the first final map for the development project. The first final map for the development project shall be conditioned upon:

a. The recordation of a regulatory agreement on the dedicated site;

b. Transfer of title to the dedicated site to SHRA or its designee; and

c. Delivery of infrastructure necessary to accommodate the affordable housing component at the dedicated site; or

2. The developer demonstrates to the satisfaction of the County and SHRA that there are no impediments to construction of the affordable housing obligation on the proposed site and irrevocably offers to dedicate the site to SHRA.

a. "No impediments to construction" shall mean demonstration of all of the following at the time of development application:

(i.) The property is free of hazardous materials;

(ii.) No permit is required from the Army Corp of Engineers or, alternatively, if one is required, the Army Corps permit has been issued or will be issued concurrent with the Army Corps permit required for the market rate project;

(iii.) The property is free of protected biological or other protected resources or mitigation requirements related to such biological or other resources have been satisfied;

(iv.) The developer has mitigated conditions that would preclude or hamper the affordable development;

(v.) Infrastructure and utilities are delivered to the dedicated site sufficient for the affordable development; and

(vi.) The site can accommodate the minimum number of required units in a multifamily development as demonstrated by a site plan provided by the market developer. The site plan shall include the location of buildings, amenities, parking, ingress and egress, and shall account for site restrictions including, but not limited to, wetland preservation, easements, and natural obstacles.

b. Notwithstanding the provisions in subsection (B)(2)(a) of this section, SHRA and the developer may record an agreement that allows environmental mitigation or delivery of utilities and infrastructure to occur after the market development receives its final entitlement but prior to issuance of all of its building permits. The first final map for the development project shall be conditioned upon:

(i.) The recordation of a regulatory agreement on the dedicated site;

(ii.) Transfer of title to the dedicated site to SHRA or its designee; and

(iii.) Delivery of infrastructure necessary to accommodate the affordable housing component at the dedicated site.

d. In development projects of more than ten (10) market rate units, up to five model homes each representing different floor plans may be constructed notwithstanding concurrency requirements.

C. When the affordable obligation is met through payment of an in-lieu and/or affordability fee, the fees shall be paid concurrently with the payment of the building permit fees for the development project in accordance with the fee schedule in effect at the time of payment.

D. When the affordable obligation is met through purchase of excess acreage credits and the payment of an affordability fee, the approval of the excess acreage credits shall be obtained prior to the issuance of the first building permit for the development and the fees shall be paid concurrently with the payment of building permit fees for the development project in accordance with the fee schedule in effect at the time of payment. (SCC 1365 § 3, 2007: SCC 1302 § 5, 2005: SCC 1291 § 1 (part), 2005)

## 22.35.065 Buy-Down Program for Extremely Low Income Units.

In development projects meeting their affordable obligation through rental units, SHRA shall be offered the right to buy down affordable units in accordance with the following:

A. At least twenty (20) percent of the affordable units meeting the affordable housing obligation shall be available for buy-down such that the affordable housing component shall meet the minimum percentages for very low income and ELI households required by Section 22.34.030.

B. In consultation with the development industry, the director of SHRA shall annually establish the price of an ELI unit for the buy-down program. The price shall be consistent with the difference in subsidy between then required to make a unit affordable to a very low income household and that required to make a unit affordable to an ELI household. Prices may reflect the size of the affordable unit being purchased.

C. In each project selecting the option in Section 22.35.050 (A)(2), SHRA shall exercise its option to buy down so long as fees collected pursuant to Section 22.35.080 are available and to the extent that such fees are sufficient.

D. SHRA shall publish guidelines for the program, including the pricing methodology, timing of buy-down, required developer information, and the recordation of affordability covenants consistent with Section 22.35.120. (SCC 1365 § 4, 2007)

## 22.35.070 Land Dedication.

A. Suitability for Dedication.

1. ELI Competitive Land. Upon the recommendation of SHRA, the County shall determine that a site is suitable for dedication and shall request dedication of that site if the land proposed meets the following criteria:

a. The site is zoned in a manner to accommodate the required number of multifamily dwelling units and is located within a half mile of at least three of the following amenities:

(i.) An existing or planned public elementary, middle, or high school;

(ii.) An existing or planned public park or recreational facility;

(iii.) An existing or planned transit stop;

(iv.) An existing or planned grocery store or commercial center of at least ten (10) acres;

(v.) An existing or planned public library.

b. The site is sufficient in size to contribute at least four net buildable acres utilizing the land dedication formula set forth below combined with any additional acreage the developer has agreed to sell or donate but no more than ten (10) net acres in any one location; and

c. The site is feasible to develop considering environmental constraints.

2. Non-ELI Competitive Land. If no site has been found to be suitable pursuant to Section 22.35.070(A)(1), upon the recommendation of SHRA, the County shall determine a site is suitable for dedication and shall request dedication of that site if the land proposed meets the following criteria:

a. The site is zoned in a manner to accommodate the required number of multifamily dwelling units and is located within one (1) mile of at least two (2) of the following amenities:

(i.) An existing or planned public elementary, middle, or high school;

(ii.) An existing or planned public park or recreational facility;

(iii.) An existing or planned transit stop;

(iv.) An existing or planned grocery store or commercial center of at least ten (10) acres; and

b. The site is sufficient in size to contribute at least four net buildable acres utilizing the land dedication formula set forth below but no more than ten (10) net buildable acres in any one location; and

c. The site is feasible to develop considering environmental constraints.

3. Upon the recommendation of SHRA, the County may determine a site is suitable for dedication and may request dedication of that site if the land proposed is demonstrated to be competitive for available affordable financing or meets the following criteria:

a. The site is zoned in a manner and is of a sufficient size to accommodate the required number of multifamily dwelling units;

b. The site is located within one mile of at least two of the amenities listed in Section 22.35.070(A)(1); and

c. The site is feasible to develop considering environmental constraints.

B. Amount of Land to be Dedicated.

1. For land which is zoned or proposed to be zoned for single family residential (twelve (12) units per acre or less) at the time of the development application, the developer shall dedicate net buildable land according to the formula:

A x B x 15% ÷ 17 in which:
A equals the total gross acreage of the project.
B equals the midpoint between the maximum number of dwelling units per acre as zoned or proposed to be zoned and RD-5.
15 percent equals the affordable obligation.
17 equals 85 percent of the maximum density at twenty (20) units per acre.

2. For land which is zoned or proposed to be zoned for multifamily residential (more than 12 units per acre), the developer shall dedicate net buildable land according to the formula:

A x B x 15% ÷ 17 in which:
A equals the total gross acreage of the project.
B equals ten (10.
15 percent equals the affordable obligation.
17 equals 85 percent of the maximum density at twenty (20) units per acre.

3. For land which proposes residential dwelling units on non-residentially zoned land, the developer shall dedicate net buildable land according to the formula:

A x C x 15% ÷ C in which:
A equals the total gross acreage of the project.
C equals the actual residential density of the project, up to 20 dwelling units per acre.
15 percent equals the affordable obligation.

C. Off-Site Dedication. At the time of filing the development application, the developer may request the County and SHRA to accept dedication of an off-site location that allows multifamily uses.

1. Suitability Standards. The site must meet or exceed the suitability standards of Section 22.35.070(A)(1) as well as any other relevant planning criteria related to appropriate adjacent uses, as determined by the County planning director and SHRA.

2. Size. Off-site land proposed for dedication is also subject to the requirements of this chapter, and therefore must be sufficient in size to meet its own affordable obligation as well as the obligation of the development project.

3. Timing. Within one hundred twenty (120) days of receiving written notice of the planning director's recommendation for acceptance of a land dedication site, the developer must demonstrate ownership of the off-site location, or adequate control of the use of the off-site location through joint ownership, joint venture or contractual commitment with a third party to purchase the site and provide the affordable units. The site must be zoned for multifamily uses or Zoning Code regulations must allow multifamily uses, and the site must be served with the necessary infrastructure in the same manner as on-site dedicated land.

D. Excess Affordable Housing Dedication and Acreage Credits.

1. A market developer may request to dedicate excess affordable housing acreage for land located within development projects or located off-site pursuant to Section 22.35.050. Such land shall meet the site suitability standards set forth in Section 22.35.070(A)(1) and comply with the criteria in Section 22.35.070(D)(3) below.

2. For development projects that do not meet the site suitability standards set forth in Section 22.35.070(A), a market rate developer may purchase acreage credits from a donor site(s) pursuant to the criteria in Section 22.35.070(D)(3) below. If acreage credits

are purchased, the market rate developer purchasing the credits must pay an affordability fee pursuant to Section 22.35.080(B)(1) on the acreage purchased through credits.

3. Acreage credits shall be subject to the written approval of the planning director upon a determination that the following criteria have been met:

a. The amount of land required to be dedicated plus the amount of excess affordable housing acreage cannot exceed ten (10) net acres in any one location. A development project may propose more than one location for this dedication.

b. Acreage credits shall be accepted by the County only when:

(i.) The development project proposing to use the acreage credit is within the same community plan as the donor site or within a one-mile radius of the donor site, except that projects within the unincorporated areas of the Delta, Cosumnes, and Southeast community planning areas and Rancho Murieta planned unit development may purchase credits within the Vineyard or Rancho Cordova community planning areas;

(ii.) The acreage credits have been issued within five years of the receipt of the credits to the donor site; and

(iii.) Acreage credits are sufficient to meet the entire obligation of the development project pursuant to Section 22.35.070(B).

E. Affordable Housing Production on Dedicated Sites.

1. On each ELI competitive site dedicated pursuant to this chapter, SHRA shall cause to be constructed at least the number of affordable units attributed to that site as set forth in the applicable Affordable Housing Plan or Plans, with: (a) at least twenty (20) percent of the total number of required affordable units affordable to extremely low income households; and (b) at least forty (40) percent affordable to very low or extremely low income households. If after two consecutive applications for financing, the affordable housing developer has not been awarded sufficient funding to allow construction of twenty (20) percent of the required units affordable to extremely low income households, the requirement to build such units may be reduced or eliminated by the Executive Director of SHRA provided that the Executive Director finds:

a. The applications were made in good faith and in a manner that maximized the applications' competitiveness for the funds sought; and

b. The affordable housing developer cannot feasibly include the extremely low income units using other available funding sources, including funds collected pursuant to this chapter, considering reasonable and customary financing practices.

2. On each non-ELI competitive site dedicated pursuant to this chapter, SHRA shall cause to be constructed at least the number of affordable units attributed to that site

as set forth in the applicable Affordable Housing Plan or Plans, with at least sixty-seven (67) percent of the required affordable units affordable to very low income households, and the remaining available to low income households. Public assistance to the affordable housing project may take any form that is reasonable for the project, including without limitation loans and grants.

3. In the biennial report required by Section 22.35.160, the County shall demonstrate that the affordable units purchased in the buy-down program for ELI units and the aggregate production of affordable units on ELI competitive dedicated sites equals or exceeds the percentages stated in Section 22.35.030 for development projects choosing these options. In the event the report indicates a shortfall in achieving this percentage, the County shall develop a program to address the provision of the remaining units within two (2) years. Up to one-third of the obligation for ELI units may be provided through substantial rehabilitation of existing units. (SCC 1365 § 5, 2007: SCC 1306 § 6, 2005: SCC 1302 § 6, 2005: SCC 1291 § 1 (part), 2005)

## 22.35.075 Credits for Affordable Units.

A. A market developer may request to receive unit credits in exchange for the construction of affordable housing units in excess of its affordable housing obligation pursuant to Section 22.35.050. Unit credits shall be generated subject to the written approval of the Planning Director upon a determination that the following criteria have been met:

1. Credits shall accrue for affordable units that meet all of the requirements of this chapter and shall specify the affordability level and unit size;

2. Credits shall accrue on a one-for-one basis, with one credit allowed for each excess affordable unit; and

3. Credits shall accrue only for affordable units in developments produced without the use of local public funding. However, developments which include tax credit or mortgage revenue bond financing without local public funding or that participate in the buy-down program may be eligible to generate credits.

4. Credits shall accrue for affordable units in developments of two hundred (200) units or less.

B. Credits for affordable units shall be accepted by the County pursuant to Section 22.35.050(B) only when:

1. The development project proposing to use the unit credits is either within the same community plan area as the donor site or within a one-mile radius of the donor site;

2. The unit credits have been issued within ten (10) years of the receipt of the credits for the donor site. (SCC 1365 § 6, 2007)

## 22.35.080 In-Lieu and Affordability Fees.

A. If the developer is permitted by this chapter to pay a fee in lieu of constructing units or dedicating land, the following shall apply:

1. The amount of the in-lieu fee is seven thousand dollars ($7,000.00) per market rate unit. The fee is based on the cost of unimproved residentially entitled land, an adjustment factor to account for off-site improvements, and costs associated with assembling the site for development, including security, maintenance, insurance, developer selection and oversight, obtaining development plan review, and transfer to the affordable developer.

2. The in-lieu fee shall be paid concurrently with the payment of building permit fees for the development project in accordance with the fee schedule in effect at the time of building permit application.

3. The fee shall be adjusted annually by SHRA based on residential land sales in Sacramento County for unimproved entitled land. SHRA shall publish the fee schedule annually in program guidelines.

B. If the developer is paying an in-lieu fee or if required by Section 22.35.050, the developer shall pay an affordability fee to assist in the development of affordable units.

1. The amount of the affordability fee is three thousand dollars ($3,000.00) per market rate unit. The fee is based on the local subsidy needed to construct a standard apartment unit affordable to low, very low, and extremely low income households in the ratio specified in Section 22.35.030.

2. The affordability fee shall be paid concurrently with the payment of building permit fees for the development project in accordance with the fee schedule in effect at the time of building permit application.

3. The fee shall be adjusted annually based on Construction Cost Index-All Cities published by Engineer News-Record/McGraw Hill. SHRA shall publish the fee schedule annually in program guidelines.

4. For development projects dedicating sites and selling additional land pursuant to Section 22.35.050(A)(2), the affordability fee shall be adjusted as follows: The fee per market rate unit shall be reduced by one-third for units attributable to the additional land sold. If the amount of land sold equals or exceeds the amount of land dedicated, the affordability fee shall be at the reduced rate for the entire development project.

C. The in-lieu fee and the affordability fee set forth above shall be reduced for development projects with twenty (20) units or fewer, such that a five unit project shall pay twenty-five (25) percent of the total fees, and the fee shall increase by five percent for each additional unit thereafter until the total fee is one hundred (100) percent of the amounts set forth in subsections A and B, of this section.

D. SHRA may use the in-lieu and affordability fees to buy down units affordable to ELI households pursuant to Section 22.35.065. (SCC 1365 § 7, 2007: SCC 1302 § 7, 2005)SCC 1291 § 1 (part), 2005)

## 22.35.090 Incentives.

A. Increased Density Incentives. The County shall provide incentives allowing build out at densities above maximum zoned densities as defined in the Zoning Code as follows:

1. Market-Rate Project. If the affordable obligation is met through on-site land dedication, increased density may be approved by the hearing body within the market rate component of the development equal to the number of units that could have been built on the dedicated land based on the proposed average density of the market development. If the affordable obligation is met through on-site construction, increased density may be approved by the hearing body within the market rate units equal to the number of affordable units constructed under the affordable obligation.

B. Affordable Project. If the affordable obligation is met through on-site construction and if the project entitlement request does not otherwise include a rezone request, the County may approve a density increase for the affordable component of the project up to thirty (30) dwelling units per acre on any site zoned for RD-2 or above as part of the project's affordable housing plan.

C. Local Public Funding. For affordable developments that are not requesting unit credits pursuant to Section 22.35.075, the developer of the affordable component may apply to SHRA for local public funding to assist in the financing and development of the affordable housing component. The application shall contain planning and financial information necessary to evaluate the eligibility and suitability of the project for local public funding and shall include timetables or proposals for external subsidy. Local public funding may serve to facilitate state allocation of tax credits, mortgage revenue bond funds, or state or federal assistance to the project ("external subsidy"); provided that the provision of such local public funding requires that the developer diligently pursue such external subsidy and is not intended to substitute for such external subsidy. (SCC 1365 § 8, 2007: SCC 1302 § 8, 2005: SCC 1291 § 1 (part), 2005)

## 22.35.100 Unit Size, Location and Quality.

A. Developments approved pursuant to this chapter shall be conditioned to accommodate diverse family sizes by including units with different numbers of bedrooms, as determined by the approval authority, upon recommendation by the SHRA Executive Director.

B. Developments approved pursuant to this chapter shall further be conditioned so that:

1. The affordable housing plan shall provide for the dispersal of affordable units within a for-sale development and within a mixed-income multifamily development to the maximum extent feasible.

2. Multifamily buildings may contain any proportion of affordable units. However, no multifamily development consisting of more than fifty (50) percent affordable units may be located adjacent to another multifamily development with more than fifty (50) percent affordable units. This provision shall be waived in the event Section 22.35.070(A) necessitates a dedication of land within the development project in conflict with this provision.

C. Quality. Affordable units shall be visually compatible with the market rate units. External building materials and finishes and front yard landscaping shall be of the same type and quality for affordable units as for market rate units. (SCC 1302 § 9, 2005: SCC 1291 § 1 (part), 2005)

## 22.35.110 Accessibility.

A minimum of five percent of the dwelling units (but not less than one unit) in a multifamily project constructed to meet an affordable housing obligation shall be made accessible for persons with mobility impairments. A unit that is on an accessible route and is adaptable and otherwise in compliance with the standards set forth in 24 CFR Section 8.32, or any successor statute, is accessible for purposes of this section. An additional two percent of the dwelling units (but not less than one unit) in such a multifamily project shall be accessible for persons with hearing or vision impairments. (SCC 1306 § 7, 2005: SCC 1302 § 10, 2005: SCC 1291 § 1 (part), 2005)

## 22.35.120 Affordability.

In addition to the requirements of Section 22.35.140, an affordable housing plan submitted in conjunction with an application for any development subject to this chapter

which includes on-site or off-site construction of affordable units shall ensure the following:

A. Rental. Rental affordable units shall remain affordable for a period of no less than fifty-five (55) years from recordation of the notice of completion for the rental units.

B. For-Sale. For-sale affordable units shall remain affordable for a period of not less than thirty (30) years from the first sale of an individual property and from the date of any resale to an income-eligible buyer made at a time the affordable unit is subject to affordability restrictions under this chapter.

1. Affordability. For-sale affordable units shall be sold to income-eligible initial owners at an affordable price. The affordable housing plan, in order to ensure initial and subsequent affordability, may provide that the initial sale and any subsequent sale to an income-eligible purchaser shall be subject to the recordation of legal documents by SHRA to enforce the affordability, resale, and recapture requirements described in this section. Legal documents may include an interest-bearing note, a deed of trust, and a regulatory agreement or other affordability covenant. To the extent possible, affordability and resale requirements shall be designed to be compatible with conventional mortgage financing programs, including secondary market requirements.

2. Resale Procedure.

a. If the initial owner or any subsequent owner of a for-sale affordable unit intends to sell the unit at a time that the unit is subject to affordability restrictions, the owner shall notify SHRA in writing of the intent to sell, prior to initiating discussions with a real estate professional or taking any other steps to sell the unit. Upon receipt of notice from the owner, SHRA or its assignee shall have ninety (90) days to either (a) identify, qualify as income eligible, and refer to the seller an income-eligible buyer; or (b) give notice to the seller that SHRA or its assignee will acquire the unit. If SHRA or its assignee gives notice of intent to acquire the unit, it shall complete the transaction to purchase the property within thirty (30) days from the date it provides the notice of intent.

b. If the owner receives either a referral of an income-eligible buyer or a notice of intent to acquire from SHRA or its assignee, the owner shall sell the unit to the referred buyer or to SHRA or its assignee, at the resale price established by SHRA as provided in subsection (B)(3) of this section.

c. If, within the timeframes specified, SHRA or its assignee (a) does not refer an income-eligible buyer to owner and (b) does not give notice of intent to acquire or does not complete the purchase of the unit, the affordable unit may be sold to a non-income eligible buyer. The sale to a non-income eligible buyer shall be subject to the recapture provisions of subsection (B)(4) of this section. Thereafter, affordability restrictions applicable to the unit shall terminate. SHRA shall apply all funds recaptured at resale to subsidize other housing units for first-time homebuyers. SHRA shall adopt guidelines to

further detail this process, and these guidelines shall be updated as needed to meet market conditions.

3. Resale Price. SHRA shall establish the resale price for affordable units at the lesser of (a) its market value, as established by a licensed appraiser approved by SHRA, or (b) the new affordable price as established by SHRA for the income level of the buyer.

4. Equity Sharing and Recapture Provisions.

a. SHRA shall recapture the difference between the original affordable sales price and the original market value (the initial developer subsidy), or maintain that subsidy in the unit in the case of a sale to another income-eligible homebuyer.

b. The homeowner's share of the home's appreciation over its original market value shall be determined by SHRA as follows: each year, the owner will receive an increasing percentage of the home's appreciation over its initial market value, and SHRA shall receive a decreasing percentage so that by the end of the regulatory term, the owner will receive all market appreciation over the home's original market value. SHRA's guidelines shall specify the equity sharing formula.

5. Hold Harmless Protections. In the event of an open market sale, should the current resale price be less than the original market value of the unit, or should the resale price be insufficient to ensure that the seller receives his or her original investment in the unit as well as reasonable and customary closing costs and capital improvements determined eligible by SHRA, SHRA shall decrease its recapture amount by the sum of the difference in sales price plus such closing costs and capital improvements. In the case of a resale to an income-eligible buyer, SHRA will pay such sum directly to the seller.

6. Use of Recaptured Funds. SHRA shall apply all funds recaptured at resale to subsidize other housing units for first-time homebuyers. (SCC 1291 § 1 (part), 2005)

## 22.35.130 Occupancy Requirement.

A. Rental Units. Any person who occupies a rental affordable unit shall occupy that unit as his or her principal residence.

B. For-Sale Units. An owner who purchases a for-sale affordable unit shall occupy that unit as his or her principal residence, and shall certify to the developer or seller of the unit that he or she is a first-time home buyer. (SCC 1291 § 1 (part), 2005)

## 22.35.140 Affordable Housing Plan and Request for Determination of Site Suitability.

A. An affordable housing plan shall be submitted as part of the application for a development project subject to this chapter.

B. In addition to the requirements of Section 22.35.120, the affordable housing plan shall contain, at a minimum, the following information:

1. If the developer is constructing units:

a. Location of the affordable units;

b. Tenure of affordability of the units;

c. Affordability levels;

d. Phasing/linkages of the affordable units with the market rate units;

e. Identification of developer of the affordable units;

f. Requested incentives including any density bonus;

g. If the affordable housing component is proposed to meet the affordable obligation of more than one development project, the plan must identify the other proposed development projects and demonstrate the following:

(i.) Total number of affordable housing units to be credited to each development project. Each affordable housing unit may only be credited to one development project;

(ii.) How the concurrency requirements will be met for each development project; and

(iii.) That the location of each participating project is either on-site or meets the definition of “off-site” as set forth in Section 22.35.020;

h. When constructing rental units, information necessary to participate in the buy-down program; and

(i.) If the developer is proposing to develop units for credit, information necessary to determine compliance with Section 22.35.075.

2. If the developer is paying an in-lieu fee:

a. Number of market rate units on which the in-lieu fee is calculated;

b. Amount of the in-lieu fee.

3. If the developer is dedicating land on-site or off-site:

a. Description of the land to be dedicated;

b. Purchase price of any additional land to be sold;

c. The number of affordable units attributable to the dedicated site. The number of affordable units attributable to the dedicated site shall be the product of A X B X fifteen (15) percent where in which:

A is the total gross acreage of the dedicated development project site.

For single family residential (twelve (12) units per acre or less) sites, B equals the mid-point between the maximum number of dwelling units per acre as zoned or proposed to be zoned and RD-5.

For sites zoned for multifamily residential (more than twelve (12) units per acre) above RD-10, B equals ten (10).

For non-residentially zoned sites, B equals the actual residential density of the project up to twenty (20) dwelling units per acre.

For off-site locations, B equals the eighty-five (85) percent of the zoned density of the off-site location in order to calculate the additional obligation of that site.

d. Amount of excess affordable housing acreage dedicated pursuant to Section 22.35.050(A)(3) or (B)(3) and 22.35.070(D);

e. Timing for the required improvements to the dedicated land;

f. Affordability requirements for the dedicated site:

g. Information needed to make findings of site suitability pursuant to Section 22.35.070(A);

h. Requested incentives; and

i. If the contributing land is proposed to meet the affordable obligation of more than one development, the plan must identify the other proposed development projects and demonstrate the following:

(i.) Total amount of dedicated land to be credited to each development project. The total amount of land must be sufficient in size to meet each development project’s affordable housing obligation;

(ii.) How the concurrency requirements will be met for each development project; and

(iii.) That the location of each participating project is either on-site or meets the definition of “off-site” as set forth in Section 22.35.020.

4. If the developer is applying to use excess affordable housing acreage:

a. Name of party or parties and project(s) from which the excess acreage is being acquired;

b. Date excess acreage was approved on the donor site;

c. Location of donor site(s) from which the acreage was derived;

d. Amount of acreage from the donor site(s) applicable to the development project;

e. Number of total acres acquired in acreage credits; and

f. Amount of affordability fee.

5. If the developer is applying to use unit credits pursuant to Section 22.35.075:

a. Name of party or parties and project(s) from which the unit credits are being acquired;

b. Date unit credits were approved from the donor development;

c. Amount of unit credits being applied; and

d. Any other information deemed necessary by SHRA, in its sole and absolute discretion, to determine that the credits were generated and acquired in compliance with Section 22.35.075.

C. Not later than thirty (30) days after the application is deemed complete, the Planning Director shall notify the developer in writing whether the affordable housing plan will be recommended for adoption, including whether land proposed for dedication will be recommended for acceptance. The affordable housing plan shall be heard concurrently with the project, and no project level approval shall be granted without an approved affordable housing plan. Compliance therewith shall become a condition of the project and shall be enforced through recordation of agreements on the development project as necessary to ensure compliance with the affordable housing plan. If the developer is dedicating land, the approval shall contain findings of site suitability pursuant to Section 22.35.070(A). Should the hearing body reject the proposed dedication, the hearing body must make specific findings that the site suitability standards have not been met.

D. The developer may make an early “request for determination of site suitability” for on-site land dedication from the Board of Supervisors. The developer must make this

request in writing to the Clerk of the Board within twenty (20) days of receipt of notification of the recommendation on the affordable housing plan. The request will be scheduled before the Board of Supervisors within ninety (90) days of receipt of the request and payment of any applicable fees. The public hearing shall be noticed to neighbors within five hundred (500) feet of the affordable site and to the chairperson of the local Community Planning Advisory Council. If the Board of Supervisors finds the site unsuitable, the Board of Supervisors must make specific findings that the applicable site suitability standards have not been met. The following components from the affordable housing plan shall be prepared and available for consideration at the hearing:

1. Location of the affordable units;

2. The number of affordable units attributable to the site;

3. Affordability levels of the units; and

4. Requested incentives including any density bonus pursuant to Section 22.35.090(A)(2). (SCC 1365 § 9, 2007; SCC 1302 § 11, 2005: SCC 1291 § 1 (part), 2005)

## 22.35.150 Establishment and Administration of Fund for In-Lieu Fees.

A. There is hereby created by the Office of the County Auditor-Controller in the County Treasury a special interest-bearing trust fund entitled the Fund for In-Lieu Fees. All fees collected pursuant to Section 22.35.080(A) and interest shall be placed in said fund and shall be expended solely to purchase land for affordable housing or to buy down ELI units pursuant to Section 22.35.065.

B. The Fund for In-Lieu Fees shall be administered by the Executive Director of SHRA who shall have the authority to govern the fund consistent with this chapter and to prescribe procedures to carry out these purposes, subject to the Board of Supervisors' approval by resolution. A portion of the funds may be used to cover reasonable administrative expenses not reimbursed through processing fees. (SCC 1365 § 10, 2007: SCC 1302 § 12, 2005: SCC 1291 § 1 (part), 2005)

## 22.35.160 Establishment and Administration of Fund for Affordability Fees.

A. There is hereby created by the office of the County Auditor-Controller in the County Treasury a special interest-bearing trust fund entitled the Fund for Affordability Fees. All fees collected pursuant to Section 22.35.080(B) and interest shall be placed in said fund and shall be expended solely:

1. To assist in the new construction of affordable units on dedicated land.

2. To assist in the substantial rehabilitation of units affordable to extremely-low income households.

B. The fund for affordability fees shall be administered by the Executive Director of SHRA who shall have the authority to govern the fund consistent with this chapter and to prescribe procedures to carry out these purposes, subject to the Board of Supervisors' approval by resolution. A portion of the funds may be used to cover reasonable administrative expenses not reimbursed through processing fees.

C. The County Planning Department and SHRA shall report biennially on the performance of the affordable housing program, including the number of units produced, amount of dedicated and purchased land, and the amount of funds collected. The report shall also include the levels of affordability in units constructed pursuant to this chapter. (SCC 1302 § 11, 2005: SCC 1291 § 1 (part), 2005)

## 22.35.170 Waiver.

At the time a development project is heard by the appropriate approval authority, the developer may request a determination that the requirements of this chapter, taken together with all applicable incentives, as applied to the residential project through the affordable housing agreement, would deny the owner any economically viable use of the subject property for residential uses. The developer has the burden of providing economic information and other evidence necessary to establish that application of the provisions of this chapter would deny the owner any economically viable use of the subject property for residential uses. The approval authority shall make the determination, which, if the approval authority is not the Board of Supervisors, may be appealed in the same manner as any other decision of the applicable approval authority. In making the recommendation or determination, the decision maker shall assume each of the following: (A) incorporation of the affordable housing component in the residential project; (B) application of any incentives; (C) incorporation into the residential project of the most cost-efficient product type for the affordable units; and (D) external funding where reasonably likely to occur. If it is determined that the application of the provisions of this chapter would deny the owner any economically viable use of the subject property for residential uses, conditions of approval shall be modified to reduce the obligations in the affordable housing component to the extent and only to the extent necessary to avoid such a result. Absent such a determination the requirements of this chapter remain applicable. (SCC 1302 § 14, 2005)

## 22.35.180 Severability.

The Board of Supervisors of the County of Sacramento declares that should any section, paragraph, sentence, or word of this chapter be declared for any reason to be invalid, it is the intent of the Board of Supervisors that it would have passed all other portions of this chapter, independent of the provision declared invalid. (SCC 1302 § 15, 2005: SCC 1291 § 1 (part), 2005)