

Equitable Development Coalition
Framework for the Protection, Preservation, and Production of
Equitable Communities in the San Diego Region

Introduction

Housing is a human right and inextricably linked to the climate crisis. At the bare minimum, everyone deserves quality housing that is affordable, healthy, safe and in close proximity to life's essential goods and services such as public transit, good schools, jobs, parks, and grocery stores. Everyone also deserves to live in inclusive and connected, safe, and walkable communities where people feel a sense of belonging.

Unfortunately, many people do not have access to affordable housing, clean air, or connected communities because of historically systemic racist policies – such as exclusionary zoning and redlining –that have manifested in our current inequitable and inadequate housing system. The prevalent health, generational wealth, and economic disparities for Black people, Indigenous people, and other communities of color is a direct result of the intentional disinvestment from the government, private and public funding, and resources allocated to these communities. This has resulted in lower homeownership rates for people of color, and disparate access to essential resources such as jobs, healthcare, grocery stores, and parks. Low-income communities who have been negatively affected by redlining and historically disinvested are more likely to live in smaller spaces with less ventilation that puts them at greater risk of unsafe nitrogen dioxide exposure and health diseases, such as asthma. Increasing the supply of diverse housing types at all affordability levels is a powerful tool to rectifying historical and systemic drivers of housing insecurity. Jurisdictions must develop equitable policies that address housing affordability, reduce segregation, create upward mobility, and lower greenhouse gas emissions.

Our housing stock is a major contributor to climate change: residential buildings account for [20%](#) of greenhouse gas emissions.¹ [Wildfires](#), [rising sea levels](#), [extreme heat and drought](#), natural disasters, and [pollution](#) are causing displacement, destroying our natural habitats and quality of life, straining resources and the limited affordable housing stock available, and contributing to skyrocketing housing costs. At the same time, decades of sprawl development—the outward expansion of low-density residential and commercial development — has proved to be unsustainable, dangerous, costly, inequitable, and destructive, especially in recent years as San Diegans face the impacts of an accelerating climate crisis. The failures of sprawl development restrict affordable housing supply and promote divestment in existing communities, exacerbates climate change by inducing mega-commutes and traffic congestion, increases wildfire risks, and destroys natural habitats. Sprawl development has also largely been driven by exclusionary zoning policies—laws that place restrictions on the type of homes that can be built in a certain neighborhood—and other regulations that reduce construction, raise housing prices, and

¹ <https://housingmatters.urban.org/articles/we-cant-address-our-housing-crisis-without-addressing-our-climate-crisis>

ultimately lead to inefficient zoning in many neighborhoods, restricting the number of units that can be built.² San Diego’s population keeps growing and needs more housing; however, this does not mean the region should use land inefficiently.

The region is [missing](#) approximately 88,400 units – or roughly 7% of the regional housing stock - and the vast majority of the missing homes are needed for lower-income and middle-income households. For too many in San Diego, the cost of renting or owning a home is out of reach, disproportionately burdening and displacing low-income working class communities of color (“communities of concern”), worsening the impacts of decades of racist and segregationist land use and housing policies. According to a [recent report](#), decades of housing policies promoting market-rate construction have resulted in a significant lack of affordable housing. This reliance on market-rate construction has failed to produce critically needed affordable housing and failed to provide critical safety nets to keep people housed.³ Our failed housing policies also include burdensome and overly complicated financial tools used to develop affordable housing such as the Low-Income Housing Tax Credit (LIHTC). The complexities of trying to find the right stack of the multiple funding streams needed to finance affordable housing with ultimately expiring affordability covenants make the process of developing housing slow, uncertain, and without permanency. Addressing the affordable housing crisis requires transformative change to establish policies that fundamentally rethink how we develop, rehabilitate, finance, and operate affordable housing.

The Equitable Development Committee of the San Diego Green New Deal Alliance is committed to pursuing bold action to provide affordable, equitable, and sustainable housing in areas that are already urbanized—closer to jobs, transit, and daily amenities.

Our Vision

A San Diego region that supports inclusive, thriving, socioeconomic and culturally diverse communities to flourish, where every resident has access to affordable, safe, sustainable housing near job centers and transit. A city where we center equity by prioritizing climate and housing investments in communities of concern as well as ensuring the transition to a zero carbon future does not burden or displace impacted communities. We aim to take urgent and far-reaching actions to:

- Prevent tenant displacement
- Preserve our existing affordable units, and
- Produce new and permanently (non-market) affordable mixed income units.

² Gyourko, J. and Molloy, R. (2015). Chapter 19 - Regulation and Housing Supply. *Handbook of Regional and Urban Economics*. Science Direct. <https://www.sciencedirect.com/science/article/abs/pii/B9780444595317000193>

³ To learn more about the housing affordability crisis in the San Diego region, please refer to this [link](#).

The Equitable Development Committee will need to create an overarching anti-displacement proposal that will ultimately help to advance an equitable development in the San Diego region utilizing the 3 Ps outlined in this report.⁴

I. Prevent Tenant Displacement

Tenant protections come in different forms, most importantly: 1) Just-cause ordinances; 2) Providing legal counsel, especially in eviction cases; 3) Source of income ordinances ; 4) Anti-harassment ordinances (including retaliatory measures on the part of the landlord), and 5) Rent stabilization/rent control ordinances. Cities across San Diego are grappling with how to increase tenants' protections as eviction moratoriums phase out. Of the eighteen cities within the County of San Diego, only Chula Vista has passed a just-cause and anti-harassment ordinance.⁵

1. Just Cause Ordinances

Just cause ordinances protect renters and limit unfair landlord practices of terminating long-term leases. Numerous cities in California have passed “just cause” legislation to increase tenant protections from unlawful evictions and offer families housing security. The City of San Diego “[Tenants Right to Know Regulations](#)” ordinance was adopted in 2004 and provides weak protections for tenants that simply provide landlords with the ability to evict for certain no-fault and at-fault evictions. However, it offers little safeguards to tenants once those evictions are initiated.⁶ For example, there is no requirement for payment when a tenant is displaced through a no-fault eviction. Furthermore, the ordinance is silent on whether a tenant can pursue a civil case against a landlord who violates the law. Although the California State Legislature passed the [Tenant Protection Act \(TPA\) of 2019 \(AB 1482\)](#) which requires a landlord to pay a tenant for certain no-fault evictions, along with other protections, there is still significant room for local ordinances that adopt and go beyond AB 1482.

Fortunately, there are efforts underway to pass a strengthened tenants protection ordinance in the City of San Diego. Specifically, the ordinance would place restrictions on landlords pursuing no-fault evictions, protect tenants from landlord retaliation, and safeguard students, low-income families, and elderly or disabled tenants. For no-fault evictions, landlords would be required to pay tenants relocation payments equivalent to six months fair market rent. This amount goes beyond the amount currently required under AB 1482. As of August 2022, the draft ordinance is under review with the City Attorney’s Office in the City of San Diego. Another potential avenue to strengthen tenant protections may be in Mayor Todd Gloria’s [Housing Action Package 2.0](#). The current proposal, which will began receiving public input in fall 2022, includes a potential anti-displacement policy for tenants at risk of displacement due to new construction.

Recommendation 1: The City of San Diego “Tenants Right to Know Regulations” Ordinance should be amended to provide greater tenant protections.

⁴ To learn more about displacement and additional anti-displacement strategies, please view this [link](#).

⁵ Other cities within the county have passed ordinances that only apply to mobile and manufactured homes. To see the comprehensive list of cities, view this [link](#).

⁶ To learn more about the City of San Diego’s just cause ordinance and efforts to strengthen the ordinance, visit this [link](#).

Recommendation 2: Once a strengthened ordinance is passed, advocate for free education and a right to legal counsel provided by the city for low and very-low income tenants.

Recommendation 3: Advocate that the “Affordable Housing Anti-Displacement Protection” action included in the Housing Action Package 2.0 will strengthen the City’s regulations to protect tenants who could be displaced by the construction of new homes. Ensure that the development of these anti-displacement regulations are informed through community engagement.

Recommendation 4: Conduct community outreach to make residents aware of available legal services. Ensure outreach is equitable with special consideration of low-income and limited English proficient communities.

Recommendation 5: Conduct a survey of other jurisdictions in the San Diego region to determine other localities in need of strengthened tenant protections, and potential county level protections.

Recommendation 6: Based on survey, develop campaigns to pass greater tenant protections in other localities within the San Diego region.

2. Legal Representation

Nationwide, 90 percent of **tenants** do not have legal representation, while 90 percent of **landlords** do.⁷ The [City of San Francisco](#) adopted a policy to utilize city funds to provide an attorney to all tenants facing evictions in the city. In 2017, [New York City](#) passed a right to counsel for those below 200 percent of the federal poverty line, regardless of immigration status.⁸ Similarly, in 2011, the [Sargent Shriver Civil Counsel Act](#) (AB 590), established a pilot program that would provide counsel for low-income tenants who are facing an eviction from a legally represented landlord, including a program in the County of San Diego. Intended as a pilot program, this program was made permanent in [2016](#). In San Diego County, the San Diego Superior Court and nonprofits including the Legal Aid Society of San Diego, Inc. and the San Diego Volunteer Lawyer Program developed the programming. Although this program provides valuable representation for certain tenants, many still go without representation because they self-evict due to inadequate language access, limited capacity, and weak tenant protections.

Recommendation 1: Advocate for strengthened tenant protections in cities throughout the San Diego region to protect tenants from eviction.

Recommendation 2: Engage and educate tenants about their rights and ability to challenge unlawful actions.

Recommendation 3: Amend state law to expand Shriver Civil Counsel Act to all low-income tenants by removing the landlord legal representation restriction.

Recommendation 4: Advocate for additional state funding for Shriver Civil Counsel Act.

3. Source of Income Ordinances

In 2018 the [San Diego City Council](#) passed a source of income ordinance that prohibited landlords from declining to rent to a tenant based only on the household receiving rental assistance. This includes assistance from any federal, state, local, or nonprofit administered benefit or subsidy program, or any financial aid from any program that provides rental assistance, homeless assistance, security deposit assistance, or a housing subsidy. For example, landlords cannot advertise that they do not accept Section 8 Housing Choice Vouchers. The

⁷ To learn more about the need for tenant legal representation, visit this [link](#).

⁸ To learn more about the NYC Right to Counsel coalition and campaign, view this [link](#).

ordinance applies to all housing providers who rent property in the City. However, homeowners who live in their house, condominium or other single-family unit and rent out a room within that unit are exempt from the ordinance. In 2019, the state of California passed a source of income law ([SB 329](#)) that became effective in 2020 that applies statewide, and therefore covers all cities within the San Diego region. The same exemptions under the City of San Diego law apply under SB 329.⁹

Recommendation: Engage and educate the community on state source of income law.

4. Anti-Harassment Ordinances

Anti-harassment ordinances protect tenants from harassment on the part of the landlord. For example, a landlord may try to evict a tenant because the tenant has exercised a legal right (for example, using the repair and deduct method or complaining about a problem in the rental unit). Or, the landlord may raise the tenant's rent or reduce services to punish the tenant for complaining or lawfully exercising a tenant right. In either situation, the landlord's action is deemed retaliatory, if no good cause is provided in the notice. State law offers tenants protection from breach of the [warranty of habitability](#), [retaliatory eviction](#) and other [retaliatory acts](#). In addition, both federal and state law protect tenants from discrimination.

Recommendation: Pass anti-harassment ordinances in cities throughout the San Diego region.¹⁰

5. Rent Stabilization/Rent Control Ordinances

Numerous [cities](#) in California have rent stabilization or control ordinances, such as Bell Gardens, Antioch, Santa Ana, and Oxnard. Statewide rent stabilization protections were adopted as part of the [Tenant Protection Act \(TPA\) of 2019](#) ([AB 1482](#)). Since March 15, 2019, rent increases for tenancies of 12 months or longer are capped at 10 percent, or 5 percent plus the CPI increase for the region, whichever is less. These protections are in place for a decade through 2030. However, the 10 percent cap on yearly increases may not significantly help [low-income workers](#) who are unlikely to get salary increases of the same magnitude.¹¹

The City of Mountain View recently adopted a policy ensuring that rent-controlled apartments demolished for new rental housing are replaced with units that are affordable for lower-income tenants. Under the new rules, such projects will no longer be subject to the city's rent control ordinance. Instead, rents will be capped at below-market rates so the units remain "naturally affordable."

Recommendation: Pass rent control or stabilization ordinances in cities throughout the San Diego region.

6. Emergency Financial Relief and Eviction Moratoriums

The COVID-19 pandemic left many renters at risk of being unable to pay rent due to job loss or illness. In response, federal, state, and local funds were allocated to provide rental assistance to prevent evictions and homelessness. While these programs were intended to provide temporary relief, they can now be used as examples for future emergency relief programs that could be made more permanently available for those facing eviction due to economic hardship.¹² In

⁹ To learn more about California's source of income law, view this [link](#).

¹⁰ To learn more about a successful anti-harassment ordinance campaign in California, view this [link](#).

¹¹ To learn more about rent stabilization, including the Costa-Hawkins Rental Housing Act, view this [link](#).

¹² To learn more about COVID-19 emergency tenant protections in the City of San Diego, view this [link](#).

addition to financial relief, a range of local, state, and federal eviction moratoriums were also put in place throughout the pandemic.

Recommendation 1: Pass emergency rental assistance fund programs in cities within the San Diego region.

Recommendation 2: Pass emergency eviction moratorium ordinances that would go into effect upon declaration of a state of emergency, such as a pandemic or natural disaster.

II. Preserve Affordable Housing

According to the California Housing Partnership (CHP) in its February 2022 [Affordable Homes At Risk](#) report, lower income renters are served primarily by two types of affordable homes: 1) federal-, state- and locally-subsidized multifamily properties (“affordable housing”) governed by regulatory agencies, and 2) less defined, less well studied unrestricted, “naturally-occurring” affordable housing (NOAHs) which are becoming an increasing focus for policymakers as upticks in private, for-profit acquisitions further threaten the supply of homes affordable to low-income Californians.

Additionally, in 1974 the *Housing and Community Development Act* was passed which established the Community Development Block Grant (CDBG) program, which transferred or “devolved” the authority of programs previously housed federally to states and local governments.¹³ Of particular relevance is *Section 8* of the 1974 Act, which established a voucher program for very low-income renters. This voucher program is the existing linchpin of a national policy that provides very-low income renters access to privately owned housing stock. The voucher program has serious problems, most importantly, the small number of available vouchers when compared to the need. According to the [San Diego Housing Commission](#) who administers Section 8 vouchers and other affordable housing voucher programs for city of San Diego residents, individuals may be on the waitlist for an average of 10 years. A third type of affordable housing which has not played a prominent role in affordable housing in San Diego, is public housing.

Loss of affordable housing

In May 2020, the City of San Diego issued a report, [Preserving Affordable Housing in the City of San Diego](#) commissioned by the San Diego Housing Commission (SDHC). The report identifies two main groups of affordable housing: deed restricted and naturally occurring affordable housing (NOAH). Deed restricted units come with expiration dates and if not saved, will revert back to market rate housing. The SDHC estimated that between 2020 and 2040, “the affordability status of approximately 4,200 units is set to expire, a pace of 200 units a year” (page 8).

The largest number of affordable housing units have been produced through the use of Low-Income Housing Tax Credits (LIHTC). The LIHTC creates financial incentives (tax credits) for investors, such as banks, to provide funding for affordable housing. While it has become the largest mechanism to produce affordable housing, it is highly inefficient and costly. It has been calculated that a direct grant would cost half of what a development project cost with the LIHTC.

¹³ To learn more about the federal “devolution” of affordable housing authority to the states and localities, visit this [link](#).

The production [cost](#) per unit is expensive, and the financial arrangements come with expiration dates, from 15 to 55 years, depending on the type of projects. Earlier projects were predominantly built by the private sector and are in danger. More recently most of the projects have been built by nonprofits and likely to be kept in their hands after the deed restrictions expire.

Naturally Occurring Affordable Housing (NOAH)

These units, which are market-rate units, can be lost as rents increase in general, or as neighborhoods become gentrified. The San Diego report mentioned above found “a 72 percent decrease (66,000 units) in the very low-income unrestricted housing inventory over 20 years...” By 2040, only 9,000 units are projected to remain—a further decrease of 19 percent.” With a few exceptions, they are located South of I-8, with City Heights and University Heights having the largest number. The report further notes that as NOAH units continue to be lost, “very low-income households will need to increasingly rely on a limited supply of deed-restricted affordable units.” A number of strategies may be used to preserve affordable housing, which are outlined below.¹⁴

Policy Proposals

1. Tenant Protections for Affordable Housing Preservation

Although the SDHC report has recommendations for tenant relocation assistance, it does not have information about evictions in the City of San Diego. Eviction data is very hard to come by, especially by jurisdiction. This data is necessary to better track the impact of lost affordable units.

Recommendation: Advocate for tenant relocation assistance and eviction data tracking within the San Diego region.¹⁵

2. Affordable Housing Preservation Fund

Affordable Housing Preservation Funds have been used in jurisdictions like [Washington D.C.](#) and the [Bay Area](#) which consists of public seed money that is then combined with private funds to preserve affordable housing, including acquisition and development. Although the City of San Diego has an Affordable Housing Fund, the [SDHC report](#) notes funds have mainly been used in the past for new construction rather than preservation of current affordable housing. An Affordable Housing Preservation Fund that can be used on both deed-restricted and unrestricted properties would be preferred.

Recommendation: Advocate for the creation of a public-private Affordable Housing Preservation Fund in cities throughout the San Diego region. Consider funding with Residual Redevelopment Property Tax Trust Funds (RRPTTF).

3. Small Sites Acquisition and Rehabilitation Programs

The City of San Francisco runs a [Small Sites Program](#) in which the city helps nonprofits acquire and rehabilitate small buildings and keep them affordable. The City of San Diego has the goal to establish a Small Sites Rehab Program funded with RPTTF to provide an incentive to owners of Naturally Occurring Affordable Housing (NOAH) properties to preserve affordability.

¹⁴ To learn more about the efforts in response to the SDHC report, view this [link](#).

¹⁵ To learn more about the importance of eviction data, view this [link](#).

Recommendation: Establish a Small Sites Rehabilitation Program funded with RRPTTF to provide an incentive to owners of Naturally Occurring Affordable Housing (NOAH) in cities throughout the San Diego region.

4. Preservation Ordinances

According to the [SDHC report](#), the [California Preservation Notice Law](#) provides a number of requirements that are intended to preserve affordable housing. This includes, for example, a requirement for properties that are leaving the affordable housing market to provide notice to the appropriate city and county. However, there is room for cities to improve the state law by passing a local ordinance. The City of San Diego is taking initiative by drafting an ordinance that 1) would require “deed-restricted properties to notify the City of an intended sale” and 2) create “a right of first refusal for appropriate nonprofit partners on deed-restricted properties that are for sale.”

Recommendation: Advocate for cities in the San Diego region to pass a preservation ordinance to strengthen and expand the rights granted by the California Preservation Notice Law.

5. Tenants Opportunity to Purchase Act (TOPA)

Legislation has been adopted and is being considered in many localities, including [Washington, D.C.](#) and [Berkeley, CA](#). It is a type of anti-displacement housing policy that gives tenants options to have secure housing when the property they rent goes up for sale, while also preserving affordable housing. In some variations, it also gives non-profits the opportunity to buy before being placed on the market.¹⁶

Recommendation: Adopt a TOPA ordinance in cities within the San Diego region.

III. Production of Sustainable and Healthy Affordable Housing

The production of affordable housing is key to advancing equitable development in the San Diego region. While a number of aspects and scales of intervention exist, this framework will focus on those aspects that are amenable to local and regional interventions: regulatory and funding policy.

A. Local Regulatory Programs

Local jurisdictions implement a wide range of regulatory housing programs to help produce affordable housing. While the list below is not comprehensive, it highlights some of the tools jurisdictions have available. None of these is a one size-fits-all approach; each jurisdiction must assess their housing needs and design a comprehensive housing program to meet them.

1. Inclusionary Housing Ordinances

[Inclusionary programs](#) require the construction of affordable housing in new developments, or the payment of [in-lieu fees](#) to fund such housing. In addition to increasing the number of affordable units, these ordinances can also foster communities that are socially and economically balanced. In the San Diego region, ten jurisdictions have inclusionary ordinances (Carlsbad, Chula Vista, Coronado, Del Mar, Encinitas, Oceanside, Poway, San Diego, San Marcos, and Solana Beach), two (Vista and the County of San Diego) are working on ordinances, and seven do not have such an ordinance (El Cajon, Escondido, La Mesa, Lemon Grove, Imperial Beach,

¹⁶ To learn more about small sites programs, TOPA, and the overarching financialization of rental housing, view this [link](#).

National City, and Santee).¹⁷ In August 2022, City of San Diego Mayor Todd Gloria unveiled his [Housing Action Package 2.0](#) which includes a proposal for updating current inclusionary requirements.

Recommendation 1: Strengthen City of San Diego’s Inclusionary Housing Ordinance. Request that the requirement to build units be increased from 6 percent to 10 percent immediately.

Recommendation 2: Require that all Community Plan Updates have an Inclusionary Housing Ordinance, particularly in communities such as the University Community, in conjunction with the increased housing capacity (35,000-56,000 more units) being proposed in the [University Community Plan Update](#).¹⁸

Recommendation 3: Require that each Community Plan Update sets its own specific modeshift targets in alignment with the City of San Diego’s Climate Action Plan (CAP) modeshift target to promote the development of affordable housing near transit.

Recommendation 4: Pursue inclusionary housing ordinances in the seven jurisdictions currently without ordinances (El Cajon, Escondido, La Mesa, Lemon Grove, Imperial Beach, National City, and Santee).

Recommendation 5: Educate community members on the Housing Action Package 2.0 and advocate for increased inclusionary housing requirements based on community input.

2. [Creating Balanced Communities/Affirmatively Furthering Fair Housing \(AFFH\)](#)

The San Diego region needs additional actions to remedy a legacy of spatial segregation and housing discrimination. The City of San Diego’s Balanced Communities policy and the state required Affirmatively Furthering Fair Housing policy are both tools that can be used to address segregation and create more integrated communities, with special consideration given to increasing affordable housing in communities of opportunity.¹⁹

Recommendation 1: Advocate for cities to include specific metrics to target meaningful AFFH outcomes and subsequently advocate for low-income housing in communities of opportunity.

Recommendation 2: Per Housing Element policy HE-A.9, request that the City of San Diego pursue the allocation of the citywide RHNA targets by Community Planning Area (CPA) to help better address and achieve its lower income housing needs.

Recommendation 3: Advocate for cities to end exclusionary zoning laws to permit more affordable mixed-income housing options.

3. [Commercial Linkage Fees \(CLFs\)](#)

When non-residential development is assessed, a “linkage” fee would bridge the construction of commercial developments and the need for affordable housing for the workers in the new developments that cannot afford market-rate housing. Given the [significant growth](#) of jobs in the technology sector within the region, CLFs could be a viable source of funding. Currently, only the [City of San Diego](#) has a CLF.²⁰

Recommendation 1: Advocate for commercial linkage fees in all the cities within the San Diego region to create a level playing field.

¹⁷ For a more in-depth discussion of inclusionary housing policy in the San Diego region, view this [link](#).

¹⁸ The following communities are in the process of updating their [community plans](#): Barrio Logan, Clairemont Mesa, College Area, Mira Mesa, University, and Uptown.

¹⁹ To learn more about the history of the Balanced Communities program, AFFH policy, and the City of San Diego’s commitment to allocating RHNA goals by Community Planning area, view this [link](#).

²⁰ For more information on CLFs, how a Regional Commercial Linkage Fee could work and the City of San Diego CLFs, view this [link](#).

Recommendation 2: In the City of San Diego, consider advocating for a higher CLF in the University Community and other communities where land use changes increase commercial land value and where the need for more affordable housing will be stronger.

4. Land Value Recapture (LVR)

When local governments increase land values by granting land use/zoning changes or investing in improved public facilities and infrastructure, those increases in value are the result of government actions and it is reasonable that some of those increases should be returned to the community in the form of community benefits, including affordable housing.²¹

Recommendation: Pursue and/or support Land Value Capture (Public Benefit Zoning) when community and general plans are being updated to include more housing and job capacity.

5. Community Land Trusts (CLTs)

Community Land Trusts, as the name implies, deal with land value increases — which increase the cost of housing — by keeping the land under the ownership of the CLT (a non-profit), and leased to the buyer, making housing cheaper for families to buy. CLTs provide permanent affordability because resale restrictions in ground lease preserve affordability. An example of a CLT in San Diego is the [San Diego Community Land Trust](#).²²

Recommendation: Support and fund community land trusts, such as the San Diego Community Land Trust.

6. Density Bonus

Density bonus programs allow developers to build more than the usually allowable density if they reserve a portion of their development for lower income residents or seniors. The City of San Diego has also adopted additional density bonus programs. While these laws can help provide affordable housing, there may be some indication that they limit the relevance of community plans and may not produce as much affordable housing as anticipated.²³

The purpose of the City’s Density Bonus regulations is to provide incentives for developments that provide housing for very low-, low- and moderate-income households, senior households, transitional age foster youth, disabled Veterans, or homeless San Diegans. Developers building five or more dwelling units may be eligible for an increase in development density in exchange for setting aside a percentage of the units as affordable housing. This includes offering 10 percent density bonus for developments that do not go beyond the maximum permitted building footprint; allowing developers to be eligible for an incentive or a waiver even if they don’t request a density bonus; and allowing for 100 percent density bonus for micro-unit production for developments that do not go beyond the permitted building footprint. Properties that currently contain or within the last five years have contained dwelling units with rent restrictions for low- or very-low-income tenants also may qualify for a density bonus if the property provides affordable units at percentages specified in the City’s Municipal Code, or all of the units, except manager’s units, are affordable to very low- and low-income households.

²¹ To learn more about the potential for land value recapture in the San Diego region, view this [link](#).

²² To learn more about CLTs, visit the [community-wealth.org](#) or the Oakland-based [Grounded Solutions](#) which provides research, advocacy, education technical assistance and support.

²³ To learn more about the state and the city of San Diego’s density bonus laws, and their impact, view this [link](#).

7. Community Benefit Agreements (CBAs)

According to [All-In Cities](#), a community benefits agreement (CBA) “is a legally enforceable contract between a coalition of community-based organizations and the developer of a proposed project.” In these agreements, “the developer agrees to contribute benefits to the local community if the project moves forward.” These benefits can include affordability requirements, preservation of open spaces, workforce development, and other benefits identified by the community. For the last two years, the [County of San Diego](#) has been working on developing a CBA program for the unincorporated areas of the county. The county’s Office of Planning & Development Services has been working on developing a set of options for the program and will present them to the Board of Supervisors and the Planning Commission later this year.

Recommendation 1: Advocate for CBAs within cities in the San Diego region.

Recommendation 2: Advocate for the County of San Diego’s CBA program to include metrics derived from community engagement in each project.

Recommendation 3: Identify projects in communities of concern. Facilitate community engagement and identify community needs. Share with city/county stakeholders.

Recommendation 4: Create a baseline of benefits required for all community development projects and advocate for these metrics to city officials prior to approval of the project. Baseline benefits may include open spaces, apprenticeship programs, transportation accessibility or educational investments.

Recommendation 5: Create an economic impact study to identify community needs and share with city/county stakeholders.

8. Social Housing

Social housing is de-commodified housing, meaning it is either publicly or cooperatively owned, or owned by a qualified community-based nonprofit with a mission to provide social housing. It is forever protected from transfer to private, for-profit ownership. Furthermore, it is available at affordable cost to residents of all income levels, from the very lowest to those of moderate incomes and remains permanently affordable. The [Hawaii State Legislature](#) recently passed laws intended to create a pathway for social housing. In the California State Legislature, [AB 2053](#) would have created a social housing program. Unfortunately this bill did not pass this session.

Recommendation: Advocate for social housing in the San Diego region.

9. Accessory Dwelling Units (ADUs)

According to the [California Department of Housing and Community Development](#), “an ADU is accessory to a primary residence and has complete independent living facilities for one or more persons.” During the past several years the state of California has made significant changes to state ADU laws to address barriers, streamline approval, and expand potential capacity for ADUs. According to a San Diego Housing Commission [report](#), the City of San Diego views ADUs as a main source of potential housing through 2028. While SDHC has established an [Accessory Dwelling Unit \(ADU\) Finance Program](#) to help low income homeowners build ADUs on their property, the City of San Diego has adopted an [ADU Bonus Program](#) which allows additional ADUs to be built on a property after the owner has maximized the number of ADUs allowed by right. While intended to incentivize the construction of ADUs, there may be concern with the limited affordability requirements for new ADUs. In August 2022, Mayor Todd Gloria

unveiled his [Housing Action Package 2.0](#) that includes a proposal for an analysis of ways to incentivize ADU production, including for low and very low income homes.²⁴

Recommendation 1: Educate community on local ADU programs and advocate for similar programs in other cities throughout the region.

Recommendation 2: Consider advocating for an update to ADU Bonus Program that would address issues with affordability requirements.

Recommendation 3: Partner with housing counseling organizations to educate the community on ADU programs and financing options in culturally and linguistically accessible ways.

Recommendation 4: Advocate for planning departments within the region of San Diego to expand support for permitting and processing of ADUs.

Recommendation 5: Engage community on Housing Action Package 2.0 and advocate for community-derived ADU proposals to Mayor Todd Gloria.

10. Create All Electric Homes:

Dangerous natural gas (methane) is the third-largest source of emissions in the region. Most of the housing stock is “gray housing,” which serves the immediate, necessary function of providing shelter but is often [energy inefficient](#) and adjacent to sites of [environmental injustice](#), exposing residents to health hazards, including air and water pollution. Gray housing is unhealthy for the planet and threatens residents’ physical and financial health.²⁵

Methane is also a constant hazard with more than 75% of methane emissions occurring while stoves are off because gas fittings, stove connections, and in-house gas lines leak.²⁶ In fact, children growing up in homes with gas stoves have a 42% increased risk of developing asthma and methane exposure worsens cardiovascular disorders.²⁷

If all residential gas appliances in California switched to zero emission electric ones, the improved air quality and reduced associated negative health effects equals “approximately \$3.5 billion in monetized health benefits” annually and would save 354 Californian lives.²⁸ Therefore, it is critical for San Diego to transition to all-electric “green housing”. This means adopting policies that incentives and mandate electricity being powered by a grid that is increasingly powered by clean, renewable energy. To ensure equity is centered, and workers are not harmed in this transition to safe, non-polluting and electrified homes, all-electric policies must follow careful steps and be developed in partnership with communities and people most impacted.

[The California Air Resources Board \(CARB\)](#) announced a comprehensive plan to meet federal ozone standards over the next 15 years, including the ban on new sales of natural gas heaters, water heaters, and furnaces by 2030. According to CARB, the primary goal of the new measure is to reduce emissions from new residential and commercial space and water heaters sold in California. CARB will now set an emission standard for space and water heaters to go into effect in 2030. Beginning that year, 100 percent of sales of new natural gas powered heaters and water

²⁴ To learn more about equity concerns and potential policy solutions for ADUs, view this recent [report](#) by the Turner Center and Center for Community Innovation at UC Berkeley.

²⁵<https://housingmatters.urban.org/articles/we-cant-address-our-housing-crisis-without-addressing-our-climate-crisis>

²⁶ To learn more about the climate and health impacts of natural gas stoves, view this [article](#).

²⁷ To learn more about the effects of indoor nitrogen dioxide and gas cooking on asthma and wheeze in children, view this [article](#).

²⁸ To learn more about equity and justice in the clean energy transition, view this [article](#).

heaters would need to comply with the emission standard, such as putting in electric heaters or other zero-emission options. As CARB estimates that 90% of emissions emitting from buildings come from space and water heaters, it would greatly reduce nitrogen-oxide pollution, with electric heaters cutting down by as much as 4% of California’s nitrogen-oxide footprint.

Recommendation 1: Advocate for jurisdictions to adopt All-Electric Reach Codes for new construction. Over 50 California cities have adopted these codes, providing an easy template to advance building electrification.

Recommendation 2: Advocate for local governments to develop Municipal Retrofit Plans or any plan to electrify government buildings, starting in communities populated by working-class people of color and with high-paying union jobs.

Recommendation 3: Advocate for local governments to create Community Retrofit Plans or any plan for retrofitting all existing buildings, prioritizing communities of concern. This includes developing standards that would declare multi-unit housing units without cooling mechanisms to be substandard.²⁹

- Resource: [Toward a Renter's Right to Heat-Safe Housing](#)

B. Affordable Housing Funding Opportunities

Preserving and building affordable housing requires huge amounts of money, meaning new taxes. The question is: Which is the fairest tax? It could be argued that a tax on land is, and that the tax that comes the closest to a tax on land, is a Real Estate Transaction Tax. Various other funding opportunities may also be feasible in the region, which are highlighted below.

1. Bond Measures

In 2020, the City of San Diego [Measure A](#) on the November ballot, which would have authorized the city to issue up to \$900 million in bonds with bond revenue going to fund low-income housing, substance abuse, and mental health services, and required an estimated property tax levy of between \$3 and \$21 per \$100,000 in assessed value. Measure A was narrowly defeated, not getting the required two-thirds of the vote.³⁰

Cities have used a variety of means to indicate how new tax receipts will be spent while retaining the flexibility of a general tax that can be approved by majority vote, rather than a two-thirds vote. These include development of alternative city budgets showing where additional money will go, parallel ballot measures that allocate a specified amount for a particular purpose and creation of a citizens committee focused on a particular policy area to advise the City Council on how to spend the money. With a \$900 million figure, Measure A was a bold move on the part of the San Diego Housing Federation who initiated and worked on the measure. Given the dire need to protect and produce affordable housing, we need similar bold actions.

Recommendation: Advance another bond measure similar to Measure A (2020) or consider advancing a bond measure that would not require a two-thirds voter approval rate.

2. Real Estate Transaction Tax

²⁹ To learn more about extreme heat & racial equity, view this [resource](#).

³⁰ If a tax ordinance requires that the revenue be used for a particular purpose, such as affordable housing, it is legally defined as a “special tax” that requires a two-thirds vote of the people, as with Measure A.

Generally, economists agree that a tax on land, and more specifically on increases in land values, would be the tax with the fewest, if any, drawbacks. In San Diego, property values have increased tremendously (more precisely the value of the land under a house or apartment building) because of the growth of the economy and not an owner's activities. A real estate transaction tax would recapture some of those increases for public benefit. The tax would be charged when a property changes ownership, and be paid by the seller. It could be set up so that the higher the value of the property, the higher the tax, similar to the policy in [San Francisco](#). For example, the tax could be 1 percent for properties up to \$500,000, 1.5 percent for properties between \$500,000 and \$1 million, and 1.5 percent over \$ 1 million. The County and several cities, including San Diego, have a real estate transaction tax of .55.³¹

Recommendation 1: Pass real estate transaction taxes in cities throughout the San Diego region which do not currently have this type of tax.

Recommendation 2: Reform current local real estate transaction taxes to a progressive formula.

3. Vacancy Tax

Several cities in the country have passed or are considering a vacancy tax. Such a tax has a dual function that includes 1) raising funds for affordable housing and 2) encouraging property owners to return housing to the market. The ordinances vary in terms of the methodology utilized to identify vacant units and the types and number of exceptions. For example, in 2018, Oakland voters approved Measure W, the [Oakland Vacant Property Tax](#) ("VPT"). The VPT Act establishes an annual tax of \$3,000 to \$6,000 on vacant property. A property is considered "vacant" if it is "in use less than fifty (50) days in a calendar year" and not subject to any of ten (10) exemptions. The City of Berkeley is also considering a vacancy tax measure will appear on the November 2022 ballot.³² In the City of San Diego, there has been interest in pursuing a vacancy tax.³³ The City of San Diego's Middle-Income Housing Working Group requested the San Diego Housing Commission conduct a [study](#) on the housing vacancies in the city which was published in 2021. The Middle-Income Housing Working Group has endorsed a vacancy tax.

Recommendation: Pass a vacancy tax measure in cities throughout the San Diego region.

4. Head Tax

A head tax is a tax on the number of employees above a certain total number. In [2018](#), the City of Mountain View passed [Measure P](#), a head tax, which created a progressive payment scale that was estimated to generate around \$6 million each year, some of which would go to affordable housing and homeless services.

Recommendation: Pass a head tax in cities throughout the San Diego region.

5. Gross-Receipts Tax

A gross-receipts tax is a tax on a business' gross sales above a certain amount. The City of Richmond passed a gross-receipts tax ballot measure in 2020, which took effect this year. Under [Measure U](#), businesses will pay a tax between 0.075% to 1.395% of gross receipts.

Recommendation: Pass a gross-receipts tax in cities throughout the San Diego region.

³¹ To learn more about the potential for progressive real estate transaction taxes in cities like Los Angeles, view this [report](#).

³² To learn more about recent vacancy tax efforts in California, view this [article](#).

³³ The City of San Diego also passed a [short-term rental ordinance](#) that places a limit on the number of short-term rentals in the city. The ordinance is [expected](#) to return some housing stock to the market.

6. Salary Tax

This type of tax places a tax on salaries in the jurisdiction. The City Council of Seattle passed this tax in 2020, which brought in more than \$248 million in [2021](#) during its first year. Unlike the head tax, this tax known as the JumpStart targets payroll rather than employee headcount. Specifically, it taxes salaries exceeding \$150,000 per year at companies with annual payroll expenses of \$7 million or higher. The [tax rate varies](#), with the largest companies paying the most. **Recommendation:** Pass a salary tax in cities within the San Diego region.

7. Rental Unit Business Taxes

This tax attempts to recapture for the community a small portion of the increase in value of residential rental properties resulting from the relentless increases in rents in San Diego. As rents increase, so does the value of rental properties (the land). Skyrocketing rent increases are due to strong, rapid economic growth feeding strong demand for housing, rather than activities of the landlords. The more landlords raise rent, the more tax they would pay. Cities in the Bay Area have had some success in passing these taxes. In November 2016, East Palo Alto passed [Measure O](#), levying a 1.5 percent tax on gross receipts for landlords who own more than 5 residential rental units. In November 2016, Berkeley passed Measure U1, increasing their tax of gross receipts from 1% to 2.88% for landlords who own more than 5 residential rental units, costing the average landlord \$30 per unit per month. Applied to rental of housing, this is considered a tax on the business of renting, not a real estate tax requiring a two-thirds vote, and therefore can be increased by a majority vote. The [City of San Diego](#) has a rental unit business tax. [Fee amount](#) varies according to property type.

Recommendation 1: Pass a rental unit business tax in cities within the San Diego region.

Recommendation 2: Pass an update to the City of San Diego's Rental Unit Business Tax would create a progressive tax based on land value.

8. Transient Occupancy Tax (TOT)

A transient occupancy tax is a tax on rentals of 30 days or less, such as hotel stays or short-term rentals. The [County of San Diego](#) and the [City of San Diego](#) both have TOT taxes, along with other cities in the San Diego region. The County of San Diego TOT is applied to unincorporated areas. In the City of San Diego, the TOT is 10.5 percent. In 2020, controversial [Measure C](#) attempted to increase the TOT to fund an expansion of the convention center and homeless services. [Litigation](#) is ongoing as to whether or not the election results are valid.

Recommendation: Consider passing TOT in jurisdictions without TOT and ensure funds would be guaranteed for affordable housing financing or homelessness services.

C. Other Regional Approaches

Housing affordability problems are principally regional. The following are two possible regional approaches, in addition to Inclusionary Housing and Commercial Linkage Fees as described above.

1. Regional Affordable Housing Finance Agency

During 2021-2022 Legislative Session, SB 1105 introduced by State Senator Ben Hueso would have established a regional housing finance agency in the San Diego region. Specifically, the purpose of the San Diego Regional Equitable and Environmentally Friendly Affordable Housing

Finance Agency (SD REEF) would have been to increase the supply of equitable and environmentally friendly housing in the San Diego region by providing for significantly enhanced funding and technical assistance throughout the region for low and moderate income housing projects and programs, housing preservation, and rental protection programs. SB 1105 included several options to generate revenue, most requiring subsequent voter approval. The revenue would have been used for specified housing purposes defined by the bill. It is important to note there remain possible conflicts with localities wanting to pass similar or the same taxes. Unfortunately, SB 1105 was held in the Assembly Appropriations Committee.³⁴ Similar bills have been passed to create regional agencies that have far exceeded in protections. SB 679 established the Los Angeles County Affordable Housing Solutions Agency that will increase the supply of affordable housing in Los Angeles County by providing for significantly enhanced funding and technical assistance at a regional level for renter protections, affordable housing preservation, and new affordable housing productions.

Recommendation: Support similar efforts in the future to create a San Diego regional affordable housing finance agency.

2. SANDAG Funding Supporting Affordable Housing

In 2021, SANDAG developed the [Housing Acceleration Program](#) (HAP) to provide resources to local jurisdictions to help them achieve their 6th Cycle RHNA goals and to accelerate the production of housing in the San Diego region. These funds should be prioritized to support ordinances and programs to support the three Ps associated with affordable housing — protection of tenants, preservation of affordable housing, and production of affordable housing. Examples include adoption of inclusionary housing ordinances in jurisdictions without such ordinances, ordinances to protect tenants and prevent displacement, and commercial linkage fees. Criteria for allocating these funds should be based on the 40 percent of the region's households for which the housing crisis is most dire — those making less than 80 percent AMI. In addition, SANDAG is eligible to receive \$4.3 million in funding from the state's [Regional Early Action Planning](#) (REAP) grant program to support housing-related initiatives to further affordable fair housing and climate commitments, which may also be used to expand HAP.

Recommendation 1: Advocate to SANDAG for HAP funds to be used to protect tenants, preserve and produce affordable housing.

Recommendation 2: Work with SANDAG to help ensure the \$43 million in funding from the state's Regional Early Action Planning (REAP) grant program is used to support housing-related initiatives to further affordable fair housing and climate commitments.

Conclusion

The housing crisis in the San Diego region is an affordable housing crisis. While the City of San Diego's approach might lead to some improvement at the margins, it will not provide affordable housing at the needed scale. Combatting the lack of regional housing affordability requires an emphasis on anti-displacement and equity. As well as inclusive processes and equitable strategies for developing more affordable and sustainable homes near good family-sustaining union jobs, and transit. Therefore, the Equitable Development Committee of the San Diego Green New Deal Alliance is committed to advocating for the protection of tenants, preservation, and the production of affordable housing in order to systematically advance a more

³⁴ A similar effort was made in the San Francisco Bay Area. To learn more, visit this [link](#).

equitable and sustainable future for all San Diegans. This committee will use this document to inform future advocacy efforts in the San Diego region.