

ORDINANCE NO. _____

BOARD OF SUPERVISORS, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

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AN ORDINANCE MAKING MINOR SECTION NUMBERING AND WORDING CHANGES TO VARIOUS SECTIONS OF CHAPTER 1 (DENSITY BONUS PROGRAM), PART SIX (SPECIAL HOUSING REQUIREMENTS), DIVISION VI (PLANNING), SAN MATEO COUNTY ORDINANCE CODE

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The Board of Supervisors of the County of San Mateo, State of California, DO ORDAIN as follows:

Section 1. Sections 7902.1, 7902.2a(1), 7902.2a(3), 7903.1, 7903.2a(1), 7903.2a(3), 7903.2a(4), 7904.1a(1) of Chapter 1, Part VI, Division VI are hereby amended to read as follows:

Section 7902.1:

1. Eligibility for First Density Bonus

To be eligible for a first density bonus of 25 percent and an additional incentive pursuant to this Chapter, a development project shall: (1) meet the definition of "residential development" contained in Section 7901.8; (2) meet all requirements and standards of the County Zoning Regulations; and (3) be located anywhere within unincorporated San Mateo County, except the rural area of the Coastal Zone. Development projects located within the rural area of the Coastal Zone are not eligible for a density bonus pursuant to this Chapter. A separate density bonus program, as described in Local Coastal Program Policy 3.23, applies in the rural areas of the Coastal Zone.

Section 7902.2a(1):

(1) Ten (10) percent of the total units in a residential development will be constructed for very low income households, as defined in Section 7901.10.

Section 7902.2a(3):

(3) Fifty (50) percent of the total units in a residential development will be constructed for senior households, as defined in Section 7901.9.

Section 7903.1:

1. Eligibility for Second Density Bonus

To be eligible for a second density bonus pursuant to this section, a development project shall meet all of the requirements to qualify for the first density bonus as set forth in Section 7902, except that no second density bonus shall be granted in the Coastsid Commercial Recreation Zoning District.

Section 7903.2a(1):

(1) An additional 10 percent or more of the total units in a residential development will be constructed for very low income households, as defined in Section 7901.10.

Section 7903.2a(3):

(3) An additional 30 percent or more of the total units in a residential development will be constructed for moderate income households, as defined in Section 7901.6.

Section 7903.2a(4):

(4) An additional 30 percent or more of the total units in a residential development will be constructed for lower income senior households, as defined in Sections 7901.3 and 7901.9.

Section 7904.1a(1):

(1) Step One: Determine the maximum attainable density of residential development allowed by the County Zoning Regulations for the zoning district in which the residential development is located. As defined in Section 7901.5, this shall be based on application of the following to an existing parcel of record: (1) density standards (maximum net density); and (2) other required development standards (e.g., setbacks, parking) contained in the County Zoning Regulations.

Section 2. This Ordinance will be in full force and effect thirty (30) days after determination by the California Coastal Commission that enactment of this ordinance by the San Mateo County Board of Supervisors constitutes legally adequate acceptance of modifications made by the Coastal Commission.

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ORDINANCE NO. _____

BOARD OF SUPERVISORS, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

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AN ORDINANCE REPEALING PART VI (SPECIAL HOUSING REQUIREMENTS), SECTIONS 7900 TO 7907 (DENSITY BONUS PROGRAM FOR DESIRED HOUSING TYPES) OF DIVISION VI OF THE COUNTY ORDINANCE CODE (PLANNING), AND ADDING PART VI (SPECIAL HOUSING REQUIREMENTS), SECTIONS 7900 TO 7907 (DENSITY BONUS PROGRAM) TO DIVISION VI (PLANNING) OF THE COUNTY ORDINANCE CODE, AS CERTIFIED BY THE CALIFORNIA COASTAL COMMISSION

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The Board of Supervisors of the County of San Mateo, State of California, DO ORDAIN as follows:

Section 1. Part VI, Chapter 1, Sections 7900, 7901, 7902, 7903, 7904, 7905, 7906, and 7907 of Division VI of the County Ordinance Code are hereby repealed.

Section 2. Part VI, Chapter 1, Sections 7900, 7901, 7902, 7903, 7904, 7905, 7906, and 7907 are hereby added to Division VI of the County Ordinance Code to read as follows:

CHAPTER 1. DENSITY BONUS PROGRAM

SECTION 7900.PURPOSE

SECTION 7901.DEFINITIONS

SECTION 7902.REQUIREMENTS TO QUALIFY FOR FIRST DENSITY BONUS OF 25 PERCENT AND ADDITIONAL INCENTIVE

SECTION 7903.REQUIREMENTS TO QUALIFY FOR SECOND DENSITY BONUS OF UP TO 25 PERCENT

SECTION 7904.METHOD OF CALCULATING THE NUMBER OF QUALIFYING AND DENSITY BONUS UNITS

SECTION 7905.STANDARDS FOR QUALIFYING UNITS

SECTION 7906.LOCATION OF DENSITY BONUS UNITS

SECTION 7907.PROCEDURE FOR GRANTING OF DENSITY BONUS AND INCENTIVE

SECTION 7900. PURPOSE

The purpose of this Chapter is to:

1. Increase the supply of housing units in the unincorporated area for very low and lower income and senior households who are most in need of housing, by offering a density bonus and other incentives to developers of new residential developments that include housing units for very low or lower income, or senior households, as specified in Section 7902;
2. Encourage increased diversity in new housing constructed in the unincorporated area for very low and lower income households by offering a supplemental density bonus to developers of new residential developments that include housing units for lower income disabled households or large rental units of three bedrooms or more for larger families of lower income, as specified in Section 7903;
3. Implement the State Density Bonus Law (Sections 65915 and 65917 of the State Government Code); and
4. Implement Policies 14.38 and 14.47 of the San Mateo County General Plan (Housing Chapter).

SECTION 7901. DEFINITIONS

1. Density Bonus Unit

A density bonus unit is defined as a dwelling unit within a residential development, which has been granted to the developer in exchange for having met the requirements of this Chapter.

2. Disabled Household

A disabled household is defined as a household with at least one person who has a physical or mental impairment that substantially limits one or

more major life activities, such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working (Source: 24 CFR Part 8, Section 8.3).

3. Lower Income Household

A lower income household is defined as a household whose income, with adjustments for household size, does not exceed the qualifying limits for lower income households as established by and amended from time to time by the U.S. Department of Housing and Urban Development pursuant to Section 8 of the United States Housing Act of 1937, as amended. The current lower income limits are available at the offices of the County Housing and Community Development Division.

4. Maximum Net Density

Maximum net density is defined as the maximum number of dwelling units allowed on a parcel per net acre.

5. Maximum Attainable Density of Residential Development Allowed by Zoning

Maximum attainable density of residential development is defined as the maximum number of dwelling units permitted on an existing parcel of record based on application of: (1) density standards (maximum net density); and (2) all other required development standards (e.g., setbacks, parking) contained in the County Zoning Regulations. Maximum attainable density may be less than the maximum net density.

6. Moderate Income Household

A moderate income household is defined as a household whose income, with adjustments for household size, does not exceed 110 percent of the median household income of the Primary Metropolitan Statistical Area (PMSA) as established by and amended from time to time by the U.S.

Department of Housing and Urban Development pursuant to Section 8 of the United States Housing Act of 1937, as amended. The current moderate income limits are available at the offices of the County Housing and Community Development Division.

7. Qualifying Unit

A qualifying unit is defined as a dwelling unit included in a residential development which enables the developer to qualify for a density bonus and incentive, as well as a supplemental density bonus, as required by this Chapter. Qualifying units include: (1) units reserved for occupancy by very low or lower income, senior, or disabled lower income households, or (2) large rental units with three or more bedrooms reserved for occupancy by lower income families.

8. Residential Development

A residential development is defined as a project, or group of projects being developed simultaneously by the same developer within the same unincorporated planning area, that contains five (5) or more parcels or dwelling units as allowed by the County Zoning Regulations, excluding any density bonus or second units. A residential development may include one or more housing types designed for permanent occupancy including, but not limited to, single family dwellings and/or multiple-family dwellings (both ownership and rental).

9. Senior Household

A senior household is defined as a household with at least one person who is 62 years of age or older.

10. Very Low Income Household

A very low income household is defined as a household whose income, with adjustments for household size, does not exceed the qualifying limits for very low income households as established by and amended from time to time by the U.S. Department of Housing and Urban Development pursuant to Section 8 of the United States Housing Act of 1937, as amended. The current very low income limits are available at the offices of the County Housing and Community Development Division.

SECTION 7902. REQUIREMENTS TO QUALIFY FOR FIRST DENSITY BONUS OF 25 PERCENT AND ADDITIONAL INCENTIVE

1. Eligibility for First Density Bonus

To be eligible for a first density bonus of 25 percent and an additional incentive pursuant to this Chapter, a development project shall: (1) meet the definition of "residential development" contained in Section 7901.8; (2) meet all requirements and standards of the County Zoning Regulations; and (3) be located anywhere within unincorporated San Mateo County, except the rural area of the Coastal Zone. Development projects located within the rural area of the Coastal Zone are not eligible for a density bonus pursuant to this Chapter. A separate density bonus program, as described in Local Coastal Program Policy 3.18, applies in the rural areas of the Coastal Zone.

2. Minimum Requirements to Qualify for First Density Bonus of 25 Percent and Additional Incentive

In addition to the maximum attainable density of residential development allowed by the County Zoning Regulations on an existing parcel of record, (1) a 25 percent density bonus, and (2) at least one additional incentive, determined on a case-by-case basis, shall be granted for a residential development meeting one of the following requirements:

a. Requirements

(1) Ten (10) percent of the total units in a residential development will be constructed for very low income households, as defined in Section 7901.8; or

(2) Twenty (20) percent of the total units in a residential development will be constructed for lower income households, as defined in Section 7901.3; or

(3) Fifty (50) percent of the total units in a residential development will be constructed for senior households, as defined in Section 7901.7.

b. First Density Bonus

The first density bonus to be granted in exchange for meeting the above requirements is a density increase of at least 25 percent over the otherwise maximum attainable density of residential development allowed by the County Zoning Regulations as of the date application is made to the County for a density bonus under this Chapter.

c. Incentives

The additional incentive offered in conjunction with the first density bonus of 25 percent is intended to facilitate the construction of the qualifying and density bonus units included in a residential development. The incentives offered are as follows:

(1) Modification of zoning code requirements (e.g., minimum open space, minimum lot size, setbacks, parking standards) except where such modification would compromise coastal resources. For example, no modification of zoning code requirements shall be allowed if such modification would impede coastal access, allow otherwise prohibited development in a sensitive habitat as defined in Policy 7.1 of the Land Use Plan or allow development that would

negatively impact a sensitive habitat, or allow development that would impair visual resources; or

(2) Allowance of other regulatory incentives or measures which can be shown to result in construction cost reductions, without compromising public policy (e.g., expedited permit processing, use of redevelopment funds or powers, if any, or other publicly assisted financing).

SECTION 7903. REQUIREMENTS TO QUALIFY FOR SECOND DENSITY BONUS OF UP TO 25 PERCENT

1. Eligibility for Second Density Bonus

To be eligible for a second density bonus pursuant to this Section, a development project shall meet all of the requirements to qualify for the first density bonus as set forth in Section 7902.

2. Minimum Requirements to Qualify for Second Density Bonus of Up to 25 Percent

A second density bonus of up to 25 percent in addition to the first density bonus may be granted by the County to those residential developments that meet the requirements set forth in Section 7902, and meet at least one of the following requirements:

a. Requirements

(1) An additional 10 percent or more of the total units in a residential development will be constructed for very low income households, as defined in Section 7901.8;

(2) An additional 20 percent or more of the total units in a residential development will be constructed for lower income households, as defined in Section 7901.3;

(3)An additional 30 percent or more of the total units in a residential development will be constructed for moderate income households, as defined in Section 7901.4.

(4)An additional 30 percent or more of the total units in a residential development will be constructed for lower income senior citizens, as defined in Section 7901.7;

(5)An additional 10 percent or more of the total units in a residential development will be constructed for lower income disabled households, as defined in Section 7901.2; or

(6)An additional 10 percent or more of the total units in a residential development will be constructed as large rental units with three or more bedrooms and reserved for lower income households, as defined in Section 7901.3.

b.Second Density Bonus

The second density bonus of up to 25 percent to be granted in exchange for meeting the above requirements is in addition to the first density bonus of 25 percent. The actual amount of the second density bonus will be determined on a case-by-case basis, but shall not exceed 25 percent of the maximum attainable density of residential development allowed by the County Zoning Regulations as of the date application is made to the County for a density bonus under this Chapter. In no event shall the total density bonus (the number of first bonus units plus the number of second bonus units) exceed 50 percent of the maximum attainable density of residential development allowed by the County Zoning Regulations.

SECTION 7904. METHOD OF CALCULATING THE NUMBER OF QUALIFYING AND DENSITY BONUS UNITS

1. Sequence of Calculations

The maximum attainable density allowed by zoning, the number of qualifying units and density bonus units shall be calculated as follows.

a. First Density Bonus

(1) Step One: Determine the maximum attainable density of residential development allowed by the County Zoning Regulations for the zoning district in which the residential development is located.

As defined in Section 7901.4, this shall be based on application of the following to an existing parcel of record: (1) density standards (maximum net density); and (2) other required development standards (e.g., setbacks, parking) contained in the County Zoning Regulations.

(2) Step Two: Determine the number of qualifying units required to receive the first density bonus.

Maximum Attainable Density of Residential Development Allowed by Zoning	X	Percent Very Low (.10), Lower Income (.20), or Senior (.50) Units Required	=	Number of Qualifying Units Required for First Density Bonus
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(3) Step Three: Determine the number of first bonus units to be granted.

Maximum Attainable Density of Residential Development Allowed by Zoning	X	Percent Bonus (.25)	=	Number of First Bonus Units
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(4) Step Four: Determine the total number of project units including the density bonus.

$$\begin{array}{l} \text{Maximum Attainable} \\ \text{Density of Residential} \\ \text{Development Allowed by} \\ \text{Zoning} \end{array} + \begin{array}{l} \text{Number of First} \\ \text{Bonus Units} \end{array} = \begin{array}{l} \text{Total Number of} \\ \text{Project Units} \end{array}$$

(5) Determine Incentive per Section 7902.2 and apply to project.

b. Second Density Bonus

(1) Step One: Determine the number of additional qualifying units required to receive a second density bonus.

$$\begin{array}{l} \text{Maximum Attainable} \\ \text{Density of Residential} \\ \text{Development Allowed} \\ \text{by Zoning} \end{array} \times \begin{array}{l} \text{Percent Very Low, Lower,} \\ \text{Moderate Income, Senior,} \\ \text{Disabled or Large} \\ \text{Units Required} \end{array} = \begin{array}{l} \text{Number of Qualifying} \\ \text{Units Required for} \\ \text{Second Density Bonus} \end{array}$$

(2) Step Two: Determine the number of second bonus units to be granted.

$$\begin{array}{l} \text{Maximum Attainable} \\ \text{Density of Residential} \\ \text{Development Allowed} \\ \text{by Zoning} \end{array} \times \begin{array}{l} \text{Percent Bonus (up to .25)} \end{array} = \begin{array}{l} \text{Number of Second} \\ \text{Bonus Units} \end{array}$$

(3) Step Three: Determine the total number of project units including both density bonuses.

$$\begin{array}{l} \text{(a) Number of First Bonus} \\ \text{Units} \end{array} + \begin{array}{l} \text{Number of Second} \\ \text{Bonus Units} \end{array} = \begin{array}{l} \text{Total Number of Bonus} \\ \text{Units} \end{array}$$

$$\begin{array}{l} \text{(b) Maximum Attainable} \\ \text{Density of Residential} \\ \text{Development Allowed} \\ \text{by Zoning} \end{array} + \begin{array}{l} \text{Total Number of} \\ \text{Bonus Units} \end{array} = \begin{array}{l} \text{Total Number of Project} \\ \text{Units} \end{array}$$

2. Units Not to be Included in Calculations

a. When calculating the maximum attainable density of residential development allowed by zoning, neither second dwelling units nor density bonus units shall be counted.

- b. When calculating the number of qualifying units required to receive the first or second density bonus, neither second dwelling units nor density bonus units shall be counted.
- c. When calculating the number of first or second density bonus units to be granted, neither second dwelling units nor density bonus units shall be counted.

3. Rounding of Fractional Numbers

- a. For the purposes of this Chapter when calculating the maximum attainable density of residential development allowed by zoning, any resulting fraction of a unit shall be disregarded, unless the County Zoning Regulations clearly state otherwise.
- b. For the purposes of this Chapter, when calculating (1) the number of qualifying units required to receive a density bonus and (2) the number of density bonus units to be granted, any resulting fraction of a unit shall be counted as one dwelling unit.

SECTION 7905. STANDARDS FOR QUALIFYING UNITS

Qualifying units shall meet the following standards.

1. Standards for Design and Construction of Qualifying Units

- a. Qualifying units must be constructed concurrently with the other units in a residential development.
Where the phasing of construction is necessary, each phase shall provide the required ratio of qualifying units to market-rate units to insure that the qualifying units are made available for sale or rent at the same time as other units in the development.
- b. Qualifying units shall be integrated into the overall design and distributed throughout the development.
The units shall generally be of the same size and quality and shall have similar amenities as the market-rate units, and their exterior materials and appointments shall be architecturally compatible with the market-rate units in the development.

c. The mix of unit sizes and bedroom counts in the qualifying units shall be directly proportional to the mix of unit sizes and bedroom counts provided in the development as a whole (i.e., if 20 percent of the units are of one size and style, 20 percent of the qualifying units shall be of that size and style).

2. Occupancy Standards for Qualifying Units

Qualifying units are to be sold or rented only to households certified by the County Housing and Community Development Division as very low or lower income, senior, or disabled lower income households, as defined in Section 7901.

3. Specific Standards for Ownership Qualifying Units

a. Price Levels for Price Restricted Units

Ownership qualifying units shall be offered at sales prices that are considered affordable to very low, lower or moderate income households, as established periodically by resolution of the Board of Supervisors. The resolution shall set forth the actual maximum sales prices and/or rental rates and shall remain in effect until modified or rescinded by the Board of Supervisors.

b. Buyer Certification and Selection

Qualifying units are to be sold to households certified by the County Housing and Community Development Division under Section 7905.2. Buyers eligible to purchase qualifying units will be selected by the developer in accordance with a marketing program approved, in advance, by the Director of Housing and Community Development. The marketing program shall set forth an equitable selection process to be used for the marketing of the affordable units established in conformance with this Chapter. Selection criteria may include, but not be limited to, household income and assets, household size, and the size of available units. In addition, priority may be given, first, to current residents of San Mateo County, and second, to persons employed in San Mateo County.

c. Guarantee of Continued Availability; Resale Controls

(1) In order to maintain the availability of the price restricted qualifying units constructed pursuant to the requirements of this Chapter, the purchase price paid by the original qualified purchaser and each subsequent purchaser of an ownership qualifying unit shall be limited to:

(a) The original purchase price plus the percentage increase defined in the original deed from the developer to the first eligible home buyer, plus the amount of any substantial capital improvement expenditures greater than one percent of the original purchase price, minus any costs necessary to bring the unit into conformity with County Building Regulations in the event that the occupant has allowed the unit to deteriorate due to deferred maintenance; or

(b) The fair market value, whichever is less.

(2) For price restricted qualifying units, the deed restrictions, recorded as part of the grant deed to the first eligible home buyer, shall contain provisions which will provide the County with a first right to either purchase the unit at the contract price or assign the County's first right to a eligible buyer. It will also contain language that, in the event that the County fails to exercise its first right to purchase, requires the seller to sell the unit at the defined "affordable sales price" to an eligible buyer selected by the seller. The seller shall not be allowed to levy or charge any additional fees nor shall any "finders fee" or other monetary consideration be allowed other than customary real estate commissions and closing costs.

(3) The owners of any qualifying unit shall incorporate as a part of the grant deed conveying title of any such unit, the declaration of restrictions, stating the restrictions imposed by this Chapter including, but not limited to, all applicable resale controls and occupancy restrictions. The terms of the restrictions shall specifically assign to the County all of the sellers' rights to enforce the declaration of restrictions in the manner provided by law. The County or its designee shall monitor resales of qualifying units, for purposes of preventing any abuse or violation of sale or resale controls.

4. Specific Standards for Rental Qualifying Units

a. Rent Levels for Rent Restricted Units

Rent restricted qualifying units shall be offered at rent levels that are considered affordable to very low or lower income households, as established periodically by resolution of the Board of Supervisors.

b. Tenant Certification and Selection

Rental qualifying units are to be rented to households certified by the County Housing and Community Development Division under Section 7905.2. Owners of rental qualifying units must make available to the authorized staff of the Housing and Community Development Division adequate records in order to prove to the County that all tenants occupying the designated affordable rental units are eligible under the term of this ordinance and the specific agreement implementing the affordability and occupancy requirements executed by the County and the developer at the time of construction of the units. The agreement will provide for a fair and equitable tenant selection process to insure the selection of eligible tenants. Selection criteria may include, but not be limited to, amount of household income and assets, household size, and the size of available units. In addition, priority may be given, first, to current residents of San Mateo County, and second, to persons employed in San Mateo County.

c. Guarantee of Continued Availability; Rent Controls

A developer of rental qualifying units required by this Chapter will be required to enter into an agreement with the County which will guarantee the continued availability of such units to certified eligible tenants through a recorded agreement with the County. This agreement will be recorded when construction of the units commences. The agreement must state that the developer agrees, and binds any successors, to maintain availability of the units to certified eligible tenants for forty (40) years from the recordation of the Notice of Completion of the units.

SECTION 7906. LOCATION OF DENSITY BONUS UNITS

Density bonus units shall be distributed throughout the residential development from which they were generated.

SECTION 7907. PROCEDURE FOR GRANTING OF DENSITY BONUS AND INCENTIVE

1. Preliminary Application

- a. A developer may submit to the County a preliminary proposal for the development of housing pursuant to this Chapter prior to the submittal of any application for formal approval (such as a general plan amendment, zoning amendment, or subdivision map approval). The preliminary proposal should describe the project, specifying the total number of units, the proposed number and type of qualifying units, and which type of incentive, of those listed in Section 7902.2, is being requested. The proposal should also include a statement as to how the granting of that incentive will improve the financial feasibility of the project and assist the developer in providing the qualifying units.
- b. Within 90 days of receipt of a preliminary proposal, the County shall notify the developer in writing of the manner in which the County will comply with this Chapter. The report to the developer should include confirmation of the maximum attainable density of residential development allowed by the County Zoning Regulations for the subject site, the number of density bonus units that will be allowed, and which incentive, of those listed in Section 7902.2, will be offered by the County pending formal approval by the Planning Commission and/or Board of Supervisors.

2. Project Approval and Granting of Density Bonus and Incentive

- a. In the Coastal Zone, the density bonus and incentive shall be granted by the Planning Commission.
- b. Outside the Coastal Zone, the density bonus and incentive shall be granted by the project decision-maker in accordance with other planning or building permits required for the project. If the project decision-maker is the Planning Director, he/she may refer the project, including the granting of the density bonus and incentive, to the Planning Commission.

3. Developer to Enter Into Recorded Agreement Prior to Approval of Project

Prior to formal approval of the project, the developer shall enter into an agreement with the County, which shall be recorded, specifying the manner of compliance with this Chapter. At a minimum, the agreement shall specify the following for the qualifying units in the development:

- a. The number of qualifying units, their size and number of bedrooms, per Section 7905.1.

- b. The party/process responsible for certifying buyer/tenant eligibility, per Section 7905.2.
- c. How vacancies will be marketed and filled, per Sections 7905.3 and 4.
- d. The standards for maximum qualifying incomes for very low, lower, or moderate income households, per Sections 7901 and 7905.2.
- e. The standards for maximum sales prices or rents for qualifying units for very low, lower, or moderate income households, per Sections 7905.3 and 4.
- f. The restrictions and enforcement mechanisms binding on the property upon sale or transfer, per Sections 7905.3 and 4.

Section 3. This ordinance shall be in full force and effect thirty (30) days after its passage.

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