

Chapter 17.90

AFFORDABLE HOUSING INCENTIVES

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17.90.010 Purpose.

The purpose and intent of this chapter is to encourage housing projects which incorporate units affordable to very-low, lower, and moderate income households, and qualifying seniors, and which conform to city development policies and standards, by providing density bonuses, or other equivalent incentives, as required by California Government Code Section 65915, et seq. (Ord. 1282 § 2, 1995; Ord. 1035 § 1 (part), 1985)

17.90.020 Definitions.

For the purposes of this chapter, the following words and phrases shall have the meaning set forth below:

- A. "Density" means residential density as defined in Section 17.16.010 of this code.
- B. "Density bonus" means a density increase of at least twenty-five percent over the maximum density otherwise allowable under the zoning regulations.
- C. "Director" means the community development director or his authorized representative.
- D. "Lower income households" shall have the meaning set forth in California Health and Safety Code, Section 50079.5; provided the income of such persons and families shall not exceed eighty percent of the median income within the county.
- E. "Very-low income households" shall have the meaning set forth in California Health and Safety Code, Section 50105.
- F. "Moderate income households" shall include those persons and families whose incomes exceed eighty percent but are less than or equal to one hundred twenty percent of the median income within the county.
- G. "Affordable" shall mean residential rent costs or sales prices which conform to the standards issued by the director and updated periodically to reflect state and/or federal housing cost indices. (Ord. 1282 § 2, 1995; Ord. 1035 § 1 (part), 1985)

17.90.030 Standard incentives for housing projects.

- A. This section shall apply only to housing projects consisting of five or more dwelling units.
- B. When a developer agrees to construct at least twenty percent of the units otherwise allowable under the zoning regulations for persons or families of lower or moderate

income, the director shall grant the developer, upon the developer's request, a density bonus equivalent to an increase in density of at least twenty-five percent over the density otherwise allowed by the zoning regulations; and the developer shall be eligible to receive at least one of the development incentives described in Section 17.90.050.

C. When a developer agrees to construct at least ten percent of the units otherwise allowable under the zoning regulations for very-low income households, the director shall grant the developer, upon the developer's request, a density bonus equivalent to an increase in density of at least twenty-five percent over the density otherwise allowed by the zoning regulations; and the developer shall be eligible for at least one of the development incentives described in Section 17.90.050.

D. When a developer agrees to construct at least fifty percent of the total dwelling units in a residential project for qualifying senior residents, as defined in Section 51.3 of the Civil Code, the director shall grant the developer, upon the developer's request, a density bonus equivalent to an increase in density of at least twenty-five percent over the density otherwise allowed by the zoning regulations; and the developer shall be eligible to receive at least one of the incentives described in Section 17.90.050.

E. If a developer agrees to construct housing for two or more of the categories listed in Section 17.90.030.(B), (C), and (D) above, the developer shall be entitled to a density bonus of at least twenty-five percent and shall be eligible to receive at least one of the development incentives described in Section 17.90.050. The city may, upon the developer's request, negotiate additional incentives in exchange for the increased provision for affordable housing.

F. The developer may submit a preliminary proposal for the development of affordable housing prior to the submittal of any formal requests for general plan amendments, zoning amendments or subdivision map approvals. The city council shall, within ninety days of receiving a written preliminary proposal, notify the housing developer in writing of the procedures under which the city will comply with this chapter.

G. Any request for a density bonus or other incentives shall be in writing, and shall include the following information, as well as any additional information required by the director:

1. The name of the developer;
2. The location of the proposed project;
3. The density allowed under the zoning regulations, as well as the proposed density;
4. The number and type (bedroom count) of dwellings and identification of those dwellings which are to be affordable to each household income category;
5. Whether the dwellings will be offered for sale or for rent;
6. The proposed sales price, financing terms, rental rates or other factors which will make the dwellings affordable to very-low, lower and moderate income households. (Ord. 1282 § 2, 1995; Ord. 1035 § 1 (part), 1985)

17.90.040 Standard incentives for conversion of apartments to condominium projects.

A. When an applicant for approval to convert apartments to condominium units agrees to provide at least thirty-three percent of the units of the proposed condominium project to households of lower or moderate income, or fifteen percent of the units of the proposed condominium project to very-low income households, and agrees to pay for the

reasonable, necessary administrative costs incurred by the city pursuant to this section, the director shall grant a density bonus equivalent to an increase in the units of twenty-five percent over the number of apartments, to be provided within the existing structure or structures proposed for conversion; provided, the director may place such reasonable conditions on the granting of the density bonus as he finds appropriate including, but not limited to, conditions which assure continued affordability of units to the targeted income groups or qualifying seniors.

B. Nothing in this section shall be construed to require the city to approve a proposal to convert apartments to condominiums.

C. An applicant shall not be eligible for a density bonus under this section if the apartments proposed for conversion constitute a housing development for which a density bonus or other incentives were provided under Sections 17.90.030 or 17.90.050.

D. The city shall grant the developer's request for development incentive(s) unless the city council makes written findings of fact that the additional incentive(s) are not required to achieve affordable housing objectives as defined in Section 50062.5 of the Health and Safety Code, or to ensure that rents for the targeted dwelling units will be set and maintained in conformance with city affordable housing standards. (Ord. 1282 § 2, 1995; Ord. 1035 § 1 (part), 1985)

17.90.050 Alternative or additional incentives.

A. When a developer agrees to construct housing for households of very-low, lower or moderate income households, or for qualifying senior households, and desires an incentive other than a density bonus as provided in Section 17.90.030 of this chapter, or when an applicant for approval to convert apartments to a condominium project agrees to provide housing for households of very low, lower, or moderate income, or for qualifying senior households, and desires an incentive other than a density bonus as provided in Section 17.90.040, the developer or the applicant shall submit a proposal for consideration by the council.

B. If the proposal is submitted by a developer of a housing project, the proposal shall include information set forth in Section 17.90.030 (G), as well as a description of the requested incentive, an estimate of the incentive's financial value in comparison with the financial of the density bonus allowed in Section 17.90.030, as well as the basis for the comparison estimate. Alternative incentive proposals may include but are not limited to one or more of the following:

1. Density bonus in excess of that provided in Section 17.90.030;
2. Waiver of application and processing fees;
3. Waiver of utility connection or park land in-lieu fees or park land dedication requirement;
4. City funded installation of off-site improvements which may be required for the project, such as streets or utility lines;
5. Write-down of land costs;
6. Direct subsidy of construction costs or construction financing costs;
7. Approval of exceptions to subdivision or zoning property development standards, but only to the extent that such exceptions would be authorized by relevant provisions of this code; provided, that any proposal for an incentive which requires a direct financial contribution from the city shall also include provisions for assuring continued availability

of designated units at affordable rents or sales prices for a period of not less than thirty years, or as otherwise required by State law.

8. Provide other incentives of equivalent financial value to a density bonus based upon the land cost per dwelling unit.

C. If the proposal is submitted by an applicant for approval to convert apartments to a condominium project, the proposal shall include those relevant items set forth in Section 17.90.030 (G), plus the requested incentive, an estimate of the incentive's financial value in comparison with the financial value of the density bonus as set forth in Section 17.90.040, and the basis for the comparison estimate. Nothing in this section shall be construed to require the city to provide cash transfer payments or other monetary compensation. The city may reduce or waive requirements which the city might otherwise apply as conditions of conversion approval.

D. Nothing in this section shall be construed to require the council to approve any alternate incentive. The developer or applicant has the standard incentive of a density bonus under Sections 17.90.030 and 17.90.040 if the council fails to approve an alternative incentive.

E. The council action on any alternative incentive proposal shall be by resolution. Any such resolution shall include findings relating to the information required in subpart B or C of this section.

F. The council shall respond to a proposal within ninety days after submittal of a complete proposal. The city clerk shall notify the developer or the applicant of the council's response. Should the council fail to approve a proposal for alternative incentives within ninety days after submittal of a complete proposal, the proposal shall be deemed denied, and the city clerk shall so advise the developer or applicant in writing. (Ord. 1282 § 2, 1995; Ord. 1035 § 1 (part), 1985)

17.90.060 Relationship to other city procedures.

A. Projects incorporating affordable housing and receiving density bonuses, incentives, or alternative incentives as provided in this chapter shall receive high priority processing, to the extent allowed by law. Operation of Sections 17.90.030 or 17.90.040, or approval of alternative incentives as provided in Section 17.90.050 shall not be construed as a waiver of standard development review procedures or an exemption of the project from city development standards other than those explicitly listed in the approving resolution. Should a project fail to receive any required city approval, the density bonus or alternative incentive granted under this chapter shall be null and void.

B. Applications of Sections 17.90.030 and 17.90.040 to projects shall be ministerial acts for purposes of environmental review. Environmental documents need not be filed solely for recordation of agreements concerning the density bonus and provision of affordable housing. Normal environmental review procedures shall apply to the project applications.

C. If the council approves an alternative incentive as provided in Section 17.90.050, such approval shall be subject to and conditioned upon an environmental determination being made for the project in the usual manner. The community development department shall outline for the council any probable, significant environmental effects which would result from the proposed incentive. (Ord. 1282 § 2, 1995; Ord. 1035 § 1 (part), 1985)

17.90.070 Agreements for affordable housing.

Prior to the issuance of construction permits for any project incorporating a density bonus or other incentive as provided in this chapter, the city and the project owner(s) shall enter into an agreement in a form acceptable to the city attorney, to be recorded in the office of the county recorder. The agreement shall specify mechanisms or procedures to assure the continued affordability and availability of the specified number of dwelling units to very-low, lower, and moderate income households and/or qualifying seniors. The agreement shall also set forth those items required by Section 17.90.030 (G) of this chapter or any alternative incentives granted pursuant to Section 17.90.050 of this chapter. The agreement shall run with the land and shall be binding upon all heirs, successors or assigns of the project or property owner, and shall ensure affordability for a period of not less than thirty years, or as otherwise required by State law. (Ord. 1282 § 2, 1995; Ord. 1035 § 1 (part), 1985)

17.90.080 Fees.

A. No fee in addition to normal project application fees shall be charged for a request for a density bonus pursuant to the provisions of Sections 17.90.030 or 17.90.040, except for reasonable, necessary administrative costs incurred by the city pursuant to Section 17.90.040.

B. A fee not to exceed the amount charge for “preapplication concept review” may be charged for proposals submitted pursuant to the provisions of Section 17.90.050. (Ord. 1282 § 2, 1995; Ord. 1035 § 1 (part), 1985)

17.90.090 Affordability standards.

A. The community development department shall publish and revise as needed a schedule of rental rates and sales prices for dwellings which will be affordable to households with incomes as provided in this chapter. The schedule shall substantially conform with the affordability standards as established by state or federal law.

B. The maximum rental rates and sales prices as revised, generally on an annual basis, shall remain in effect for projects receiving density bonuses or additional incentives under this chapter as provided in the affordable housing agreement, but in no case less than the minimum term required by state law. (Ord. 1282 § 2, 1995; Ord. 1035 § 1 (part), 1985)

17.90.100 Occupant screening.

A. The affordable dwellings developed pursuant to this chapter shall be available to qualified occupants without regard to race, religion, national origin, sex, occupation or other affiliation. Occupants may be screened on the basis of age only to qualify those occupants seeking housing designed for the elderly.

B. The city housing authority shall screen prospective occupants so that dwellings developed pursuant to this chapter shall be occupied by households with the appropriate qualifying incomes or ages. Owners of projects shall enter into agreements with the housing authority for such screening services.

C. Preference in occupant screening shall be given to those employed within or residing within the city or the immediately surrounding area, to the extent that this provision does

not conflict with state or federally funded housing assistance programs which may apply to a particular project, or other applicable law. This section is to insure that those households having the greatest difficulty obtaining housing at market rates within the city shall be able to occupy affordable housing made available pursuant to this chapter. (Ord. 1282 § 2, 1995; Ord. 1035 § 1 (part), 1985).