

CITY COUNCIL OF THE CITY OF OXNARD

ORDINANCE NO. 3002

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OXNARD AMENDING THE DENSITY BONUS ORDINANCE APPROVAL AUTHORITY IN DIVISION 7A OF ARTICLE IV OF CHAPTER 16 OF THE OXNARD CITY CODE (OCC) SECTIONS 16-410B, 16-410-F AND 16-410-R, RELATED TO THE AMENDMENT AND ADOPTION OF THE 2021-2029 HOUSING ELEMENT. FILED BY CITY OF OXNARD, COMMUNITY DEVELOPMENT DEPARTMENT, 214 SOUTH C STREET, OXNARD, CA, 93030.

WHEREAS, the City Council of the City of Oxnard has considered Zone Text Amendment (ZTA) PZ No. 21-580-03, filed by the City of Oxnard Community Development Department, to amend Chapter 16 of the Oxnard City Code (OCC) pertaining to approval authority for the City's Density Bonus. The proposed modification is to allow Density Bonus permit approval by the approval authority authorized to approve the associated discretionary or ministerial permit approval for the underlying development permit in OCC Chapter 16, Article IV, Section 16-410B (Definitions), 16-410F (Content of Application), and 16-410R (Determination on Density Bonus and Affordable Housing Incentive Program Requests); and

WHEREAS, the Planning Commission held a public hearing on September 2, 2021 to review and provide input on the 2021-2029 Final Housing Element, Staff's recommended text and map changes to the General Plan Land Use Element, Draft amendments to Chapter 16 of the Oxnard City Code and recommended zoning map amendments to facilitate construction of housing units as stipulated in the Final Housing Element; and

WHEREAS, the Planning Commission held a public hearing on September 16, 2021 to consider approving resolutions recommending that the City Council of the City of Oxnard amend the 2030 General Plan by adopting the 2021-2029 Final Housing Element Update and incorporating it as Chapter 8 of the 2030 General Plan (General Plan Amendment PZ No. 20-620-03), text and map changes to the General Plan Land Use Element (General Plan Land Use Element/Text and Map Amendment Nos. PZ 21-620-02 and PZ 21-620-03), amendments to Chapter 16 of the Oxnard City Code (Zoning Code Text Amendments No. PZ 21-580-03), and zoning map amendments to facilitate construction of housing units as stipulated in the Final Housing Element (Zoning Map Amendments No. PZ 21-580-04); and

WHEREAS, the Planning Commission received written and verbal comments from the public; and

WHEREAS, The City prepared an Initial Study - Mitigated Negative Declaration (IS/MND - No. 2021-01) for the proposed 2021-2029 Housing Element and related actions in accordance with CEQA Guidelines, Section 15070; and

WHEREAS, the Planning Commission adopt Resolution 2021-26 recommending that the City Council approve Planning & Zoning Permit No. 21-580-03 (Zone Text Amendment) adding a definition of Approval Authority and authorizing Density Bonus permit approval by the approval authority authorized to approve the associated discretionary or ministerial permit for the underlying development permit is necessary for implementation of the City's housing element; and

WHEREAS, on October 5, 2021, the City Council of the City of Oxnard conducted a duly noticed public hearing to consider the Applicant's request to approve Planning and Zoning Permit No. 21-580-03 (Zone Text Amendment) in accordance with the OCC, and

WHEREAS, the City Council received written and verbal comments from the public; and

WHEREAS, the City Council finds the proposed Zoning Text Amendment is in the public interest and reflects the input from residents, stakeholders in the community, and decision-makers. There are no changes recommended under the proposed ZTA that would reduce or compromise existing standards that protect the health, safety or general welfare of the City; and

WHEREAS, the proposed ZTA does not involve any direct physical changes to the environment. There are no changes in landforms or an intensification of land uses as a part of the proposed ZTA and all public services for existing land uses will remain as-is, with no changes and no diminishment of service or safety; and

WHEREAS, the proposed ZTA to Chapter 16 of the OCC would establish specific provisions consistent with the action items and policy directives in the 2030 General Plan; and

WHEREAS, the adoption of ZTA to City's density bonus ordinance would facilitate 'by-right' development reviewed through ministerial Site Plan Review, remove a code inconsistency that presently requires all housing projects seeking Density Bonus to be reviewed by Planning Commission (even when the underlying permit only requires Director approval), and improve project processing efficiencies; and

WHEREAS, the City Council determined that this action is exempt from environmental review pursuant to the California Environmental Quality Act (CEQA) Guidelines Sections 15060(c)(2) and (3) and 15061(b)(3) as this ZTA is a regulatory action which will not result in direct or reasonably foreseeable indirect physical change in the environment and when it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment are not subject to CEQA; and

WHEREAS, it is in the public interest, consistent with the 2030 General Plan.

NOW, THEREFORE, the City Council of the City of Oxnard does ordain as follows:

Section 1. Oxnard City Code Chapter 16, Article IV, Division 7A entitled "Density Bonus and Related Incentives and Concessions Program", sections 16-410B, 16-410F and 16-410R are amended to read as follows (**Only underlined portions are to be added**):

DIVISION 7A. DENSITY BONUS AND RELATED INCENTIVES AND CONCESSIONS PROGRAM

SEC. 16-410B. DEFINITIONS.

In addition to the definitions in section [16-10](#), the following definitions apply to this division and shall control over any conflicting definitions in section [16-10](#). State law definitions, as they may be amended from time to time, control over the definitions in this section. Where the definitions are provided by State law, the citation to the statute follows.

(A) AFFORDABLE HOUSING BENEFITS - One or more of the following:

(1) A density bonus pursuant to section [16-410H](#);

(2) An incentive pursuant to section [16-410L](#);

(3) A development standard waiver or modification pursuant to section [16-410O](#);
and

(4) A parking standard modification pursuant to section [16-410P](#).

(B) AFFORDABLE HOUSING COST - The definition set forth in Cal. Health and Safety Code, Section 50052.5. (Cal. Gov't Code, Section 65915(c)(2))

(C) AFFORDABLE HOUSING DEVELOPER - The applicant or permittee of a qualified housing development and its assignees or successors in interest.

(D) AFFORDABLE RENT - The definition set forth in Cal. Health and Safety Code, Section 50053. (Cal. Gov't Code, Section 65915(c)(1))

(E) AFFORDABLE UNIT - A residential dwelling unit that is guaranteed by the affordable housing developer to be rented or sold in accordance with the requirements of this division to one of the following:

(1) A very low income household;

(2) A low income household; or

(3) A moderate income household within a common interest development (Cal. Gov't Code, Section 65915(c)(1)-(c)(2)).

(F) APPROVAL AUTHORITY - the person or body within the City who is authorized to provide Discretionary Approval or Ministerial Approval of a Housing Development. If multiple persons or approval bodies are authorized to make one or more such approvals, then the person or body with the highest authority shall be deemed the Approval Authority.

(G) CHILD CARE FACILITY - A child day care facility other than a family day care home, including but not limited to infant centers, preschools, extended day care facilities, and school age child care centers (Cal. Gov't Code, Section 65915(h)(4)).

(H) CITY - The City of Oxnard or its designee.

(I) COMMON INTEREST DEVELOPMENT - Any of the following: a community apartment project, a condominium project, a planned development, or a stock cooperative pursuant to Cal. Civil Code, Section 4100. All common interest development units must be offered to the public for purchase (Cal. Gov't Code, Section 65915(b)(1)(D)).

(I) CONDOMINIUM CONVERSION PROJECT - A residential project in which the applicant proposes to convert apartment units to condominiums pursuant to Cal. Gov't Code, Section 65915.5(a).

(J) DENSITY BONUS - Except as used in section [16-410T](#), Condominium Conversion Projects, a density increase over the otherwise maximum allowable residential density as of the date of application to the city for a qualified housing development. (Cal Gov't Code, Section 65915(f)) As used in section [16-410T](#), "density bonus" shall be defined as set forth in section [16-410B](#). (Cal. Gov't Code, Section 65915.5(b))

(K) DENSITY BONUS UNITS - Dwelling units granted pursuant to section [16-410H](#) which exceed the otherwise maximum allowable residential density.

(L) DEVELOPMENT STANDARD - A site or construction condition, including, but not limited to, a height limitation, a setback requirement, a floor area ratio, an on-site open-space requirement, or a parking ratio, that applies to a residential development pursuant to the zoning ordinance, the general plan, specific plan or other city condition, law, policy, resolution, or regulation (Cal. Gov't Code, Section 65915(o)(l)).

(M) HOUSING DEVELOPMENT - A development project of five or more residential units, including mixed-use developments. This also includes a subdivision or common interest development that is approved by the city and consists of residential units or unimproved residential lots and either a project to substantially rehabilitate and convert an existing commercial building to residential use or the substantial rehabilitation of an existing multifamily dwelling where the result of the rehabilitation would be a net increase in available residential units. (Cal. Gov't Code, Section 65915(i))

(N) HOUSEHOLD INCOME CATEGORY DEFINITIONS

(1) VERY LOW INCOME HOUSEHOLD - A household whose income does not exceed 50% of the county's median household income as defined in Cal. Health and Safety Code, Section 50105. (Cal. Gov't Code, Section 65915(b)(1)(B))

(2) LOW INCOME HOUSEHOLD - A household whose income does not exceed 80% of the county's median household income as defined in Cal. Health and Safety Code, Section 50079.5. (Cal. Gov't Code, Section 65915(b)(1)(A))

(3) MODERATE INCOME HOUSEHOLD - Persons or families whose income does not exceed 120% of the county's median household income as defined in Cal. Health and Safety Code, Section 50093. (Cal. Gov't Code, Section 65915(b)(1)(D))

(O) INCENTIVE - "Incentives and concessions" as that phrase is used in Cal. Gov't Code, Section 65915(k).

(P) MARKET-RATE UNIT - A dwelling unit that is not an affordable unit.

(Q) MAXIMUM ALLOWABLE RESIDENTIAL DENSITY - The density allowed under the applicable zoning ordinance and the land use element of the general plan, or if a range of density is permitted, means the maximum allowable density for the specific zoning range and land use element of the general plan applicable to the project. Where the density allowed under the zoning ordinance is inconsistent with the density allowed under the land use element of the general plan, the general plan density shall prevail. (Cal. Gov't Code, Section 65915(d)(2))

(R) MINIMUM AFFORDABLE HOUSING COMPONENT - A housing development project which includes a minimum of any of the following:

(1) VERY LOW INCOME MINIMUM AFFORDABLE HOUSING COMPONENT - Provides at least 5% of the total units for very low income household residents (Cal. Gov't Code, Section 65915(b)(1)(B)); or

(2) LOW INCOME MINIMUM AFFORDABLE HOUSING COMPONENT - Provides at least 10% of the total units for low income households (Cal. Gov't Code, Section 65915(b)(1)(A)); or

(3) MODERATE INCOME MINIMUM AFFORDABLE HOUSING COMPONENT - Provides at least 10% of the total dwelling units in a common interest development for moderate income households (Cal. Gov't Code, Section 65915(b)(1)(D)).

(4) A SENIOR CITIZEN HOUSING DEVELOPMENT - As that term is defined in section [16-410B](#). (Cal. Gov't Code, Section 65915(b)(1)(C))

(5) Ten percent of the total units of a housing development for transitional foster youth, as defined in Cal. Education Code, Section 66025.9, or disabled veterans, as defined in Cal. Gov't Code, Section 18541, or homeless persons, as defined in the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11301 *et seq.*). The units described in this division (R)(5) shall be subject to a recorded affordability restriction of 55 years and shall be provided at the same affordability level as very low income units. (Cal. Gov't Code, Section 65915(b)(1)(E))

(S) OTHER INCENTIVES OF EQUIVALENT FINANCIAL VALUE - The reduction or waiver of requirements which the city might otherwise apply as conditions of condominium conversion approval, but shall not be construed to require the city to provide cash transfer payments or other monetary compensation. (Cal. Gov't Code, Section 65915.5(c))

(T) QUALIFIED HOUSING DEVELOPMENT - A housing development that meets the requirements of section 16-410C for density bonus.

(U) QUALIFIED LAND - Land offered for donation in accordance with section [16-410K](#) that meets the criteria set forth in Section 16-410K.

(V) SENIOR CITIZEN HOUSING DEVELOPMENT - A residential development as defined in Cal. Civil Code, Sections 51.3 and 51.12, or a mobilehome park that limits residency based on age requirements for housing for older persons pursuant to Cal. Civil Code, Sections 798.76 or 799.5. (Cal. Gov't Code, Section 65915(b)(1)(C))

(W) SENIOR CITIZEN HOUSING DEVELOPMENT UNIT - A residential dwelling unit within a senior citizen housing development that is available to, and occupied by, a senior citizen as defined in Cal. Civil Code, Section 51.3. (Cal. Gov't Code, Section 65915(b)(1)(C))

(X) SPECIFIC, ADVERSE IMPACT - A significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application for the housing development was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety. (Cal. Gov't Code, Section 65589.5(d)(2))

(Y) TOTAL UNITS AND TOTAL DWELLING UNITS -Dwelling units other than density bonus units. (Cal. Gov't Code, Section 65915(b)(3))

(Z) ZONING ORDINANCE - Chapter 16 and 17 of the City of Oxnard Municipal Code.

(Ord. No. 2912)

SEC. 16-410F. CONTENT OF APPLICATION.

(A) The application for a density bonus permit shall include the following information:

(1) A description of the project, including the number of dwelling units, the number of affordable units and level of affordability, and the location of the affordable units;

(2) A description of the density bonus and the incentives or concessions requested, if any, in accordance with sections [16-410H](#) thru [16-410M](#) (Cal. Gov't Code, Section 65915(b)(2)(d)(l));

(3) For parking standard modification requests, that the requirements of section [16-426](#) are met (Cal. Gov't Code, Section 65915(p));

(4) The location, design, and phasing criteria required by section [16-410Q](#), including any proposed development standard(s) modifications or waivers pursuant to section [16-410O](#);

(5) Any proposal for the waiver or reduction of development standards which waiver or reduction is required to allow the city to avoid physically precluding the

construction of a development meeting the criteria of Cal. Gov't Code, Section 65915(b) at the densities or with the concessions or incentives permitted by the statute;

(6) The proposed method of ensuring the continued affordability of all low, very low rental units, or senior units, or child care facilities, that qualified the applicant for the award of the density bonus for at least 55 years, as required by Cal. Gov't Code, Section 65915(c)(1); and

(7) Other information reasonably requested by city staff needed to establish eligibility for a requested density bonus, incentives or concessions, or to demonstrate that the incentive meets the definition of identifiable and actual cost reductions to provide for affordable housing costs or affordable rents.

(B) For the application for a density bonus permit for the donation of qualified land pursuant to section 16-410K, the application must show the location of the qualified land in addition to including sufficient information to establish that each requirement of that section has been met. (Cal. Gov't Code, 65915(g)(2))

(C) The application for a density bonus permit for a housing development that conforms to the requirements of section [16-410I](#) and/or section [16-410L](#). (Cal. Gov't Code, Section 65915(b)) and includes a child care facility that will be located on the premises of, as part of, or adjacent to, the project, shall show the location and square footage of the child care facility in addition to including sufficient information as how the applicant proposes to regulate attendance at the child care facility to conform to the requirements of Cal. Gov't Code, Section 65915(h)(2)(B).

(D) An application for a density bonus permit will not be processed until all of the provisions of this Division 7A are complied with and shall be processed concurrently with other required entitlements for which the affordable housing benefit is sought.

(E) Approval of a density bonus permit, incentives, concessions, or waivers shall be made by the Approval Authority within the City that is authorized to approve the associated Discretionary Approval or Ministerial Approval for the underlying development permit for the housing development. ~~occur at the planning commission, unless the city council makes the final determination for the project.~~ The approval of the density bonus application is nondiscretionary unless the city adopts written findings justifying the denial of the density bonus. The Approval Authority's decision shall only be appealable if the permit is denied. An appeal shall be granted if the Approval Authority's decision does not include written findings or if the written findings do not justify the denial consistent with state or local law.

(Ord. No. 2912)

SEC. 16-410R. DETERMINATION ON DENSITY BONUS AND AFFORDABLE HOUSING INCENTIVE PROGRAM REQUESTS.

The Approval Authority on the underlying qualified housing development application is authorized to approve or deny an application for an affordable housing benefit in accordance with this Division 7A.

(A) Affordable housing benefit determinations - An application for an affordable housing benefit shall be granted if the requirements of this Division 7A are satisfied unless:

(1) The application is for an incentive for which a finding is made in accordance with section [16-410N](#); or

(2) The underlying application for the qualified housing development is not approved independent of and without consideration of the application for the affordable housing benefit; or

(3) The housing development is proposed on any property that includes a parcel or parcels on which rental dwelling units are or, if the dwelling units have been vacated or demolished in the five-year period preceding the application, have been subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of lower or very low income; or occupied by lower or very low income households, unless the proposed housing development replaces those units, and either of the following applies:

(a) The proposed housing development, inclusive of the units replaced pursuant to this division (A)(3), contains affordable units at the percentages set forth under State law; or

(b) Each unit in the development, exclusive of a manager's unit or units, is affordable to, and occupied by, either a lower or very low income household.

(4) For proposed projects within the coastal zone, the proposed project cannot feasibly be accommodated on the site in a manner that is in conformity with the California Coastal Act.

(B) Affordable housing benefit compliance provisions - To ensure compliance with this Division 7A and State law, approval of an application for an affordable housing benefit may be subject to, without limitation:

(1) The imposition of conditions of approval to the qualified housing development, including imposition of fees necessary to monitor and enforce the provisions of this Division 7A;

(2) An affordable housing agreement and, if applicable, an equity sharing agreement pursuant to section [16-410S](#); and

(3) Recorded deed restriction implementing conditions of approval and/or contractual or legally mandated provisions.

(C) Appeals -

~~(1) If the decision to approve or deny an application for an affordable housing benefit is made by the planning commission, then an appeal may be filed consistent with the procedures of section [16-545](#).~~

~~—(2)—~~ If the determination of the underlying application for the qualified housing development is ~~also~~ appealed along with the decision of the affordable housing benefit, then the entire project shall be controlled by the appeal procedures applicable to the underlying application.

(Ord. No. 2912)

Section 2. If any section, sentence, clause or phrase of this Ordinance is determined to be invalid, illegal or unconstitutional by a decision or order of any court of competent jurisdiction, then decision or order shall not affect the validity and enforceability of the remaining portions of this Ordinance. The City Council declares that it would have passed and adopted this Ordinance, and each section, sentence, subsection, clause, phrase, part or portion thereof, regardless of the fact that any one or more sections, sentences, subsections, clauses, phrases, be declared invalid or unconstitutional.

Section 3. Cumulative Ordinance. Nothing in this Ordinance shall be interpreted to allow any land use which is not expressly listed as permitted or conditionally permitted within the City's Zoning Code.

Section 4. Exempt from CEQA. The City Council determines and finds that the adoption of this Ordinance is exempt from review under the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) and (3) and 15061(b)(3) of the Guidelines to the California Environmental Quality Act because the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Therefore, CEQA does not apply to this action.

Section 5. Pursuant to Government Code Section 36933(c)(1), the City Attorney was designated to prepare, and the City Clerk published, a summary of this Ordinance, and a certified copy the Ordinance was posted in the Office of the City Clerk a minimum of five days before the City Council's adoption of the Ordinance.

Section 6. The City Clerk shall certify as to the adoption of this Ordinance and shall cause summary thereof to be published within fifteen calendar (15) days of the adoption and shall post a certified copy of this Ordinance, including for and against the same, in the office of the City Clerk, in accordance with Government Code Section 36933. Ordinance No. 3002 was first read on October 5, 2021, and finally adopted on October 19, 2021, to become effective thirty (30) days thereafter.

SIGNATURES ON FOLLOWING PAGE

PASSED AND ADOPTED this 19th day of October 2021 by the following vote:

AYES: Councilmembers Basua, Lopez, MacDonald, Madrigal, Perello,
Teran and Zaragoza.

NOES: None.

ABSENT: None.


ABSTAIN: None.

RECUSED: None.




John Zaragoza, Mayor

ATTEST:



Rose Chaparro, City Clerk

APPROVED AS TO FORM:

 10/18/2021

Stephen M. Fischer, City Attorney