

Part 3. Oxnard City Code Chapter 16, Article V, Division 7B entitled “Inclusionary Housing.”
Sections 16-415A through 16-415M are hereby amended to read as follows:

DIVISION 7B. INCLUSIONARY HOUSING

- 16-415A. Intent
- 16-415B. Definitions
- 16-415C. Affordable Unit Requirements
- 16-415D. Affordable Housing Costs
- 16-415E. Affordable Housing Agreement and Equity Share Agreement
- 16-415F. Standards
- 16-415G. Off-Site Units
- 16-415H. Qualified Applicant List
- 16-415I. In-Lieu Fee
- 16-415J. Applicability
- 16-415K. Relation to Density Bonus
- 16-415L. Appeals
- 16-415M. Interpretation of this Division 7B

DIVISION 7B. INCLUSIONARY HOUSING

SEC. 16-415A. INTENT.

The intent of this Division 7B is to promote the public welfare by increasing the production and availability of affordable housing units within new market rate residential development and to assure continued provision of affordable housing in the City of Oxnard through site acquisition, construction, development assistance, rehabilitation of existing affordable housing, subsidies, financing, and administration of affordable housing programs. This Division is intended to work together with other affordable housing programs within the City of Oxnard.

SEC. 16-415B. 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. Where the definitions are provided by State law, the citation to the statute, as may be amended from time to time, follows.

- (A) AFFORDABLE HOUSING AGREEMENT - an agreement between the City of Oxnard and the developer pursuant to Section 16-415E.
- (B) AFFORDABLE RENT - The definition set forth in Cal. Health and Safety Code, Section 50053.
- (C) AFFORDABLE UNIT - A residential dwelling unit that is guaranteed by the developer to be rented or sold in accordance with the requirements of this Division to persons and families of low or moderate income (Cal. Health and Safety Code, Section 50093).

(D) DENSITY BONUS UNIT - a dwelling unit granted pursuant to Cal. Gov't Code, Section 65915 which exceeds the otherwise maximum allowable residential density.

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

(F) 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)(2)).

(G) DOMESTIC PARTNER - The definition set forth in California Family Code Section 297. An individual is considered a domestic partner of the owner by presenting the Declaration of Domestic Partnership filed with the California Secretary of State (Cal. Family Code Section 297).

(H) EQUITY SHARE AGREEMENT - An agreement between the City of Oxnard and the initial buyer of an affordable unit offered for sale pursuant to Section 16-415E.

(I) HOUSING DEVELOPMENT - A development 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))

(J) HOUSING RELATED COST - The definition set forth in California Code of Regulations Section 6920. Housing related cost is inclusive of mortgage loan payments, mortgage insurance payments, property taxes and assessments, homeowner association fees, reasonable utilities allowance, insurance premiums, maintenance costs, and space rent.

(K) HOUSEHOLD INCOME CATEGORY DEFINITIONS

(1) ACUTELY LOW INCOME HOUSEHOLDS - Persons and families whose incomes do not exceed 15% of the area median income for the Ventura County Metropolitan Statistical Area, adjusted for family size and revised annually, as defined in Cal. Health and Safety Code, Section 50063.5, as may be amended.

(2) EXTREMELY LOW INCOME HOUSEHOLDS - Persons and families whose incomes do not exceed 30% of the area median income for the Ventura County Metropolitan Statistical Area, adjusted for family size and revised annually, as defined in Cal. Health and Safety Code, Section 50106, as may be amended.

(3) VERY LOW INCOME HOUSEHOLDS - Persons and families whose incomes do not exceed 50% of the area median income for the Ventura County Metropolitan Statistical Area, adjusted for family size and revised annually, as defined in Cal. Health and Safety Code, Section 50105, as may be amended.

(4) LOW INCOME HOUSEHOLDS - Persons and families whose incomes do not exceed 80% of the area median income for the Ventura County Metropolitan Statistical Area, adjusted

for family size and revised annually, as defined in Cal. Health and Safety Code, Section 50079.5, as may be amended.

(5) LOWER INCOME HOUSEHOLDS - Includes acutely low income households, extremely low income households, very low income households and low income households whose gross incomes are 80% or less of the area median income for the Ventura County Metropolitan Statistical Area, adjusted for family size and revised annually, pursuant to California Health and Safety Code Section 50079.5 and 50105, as may be amended.

(6) MODERATE INCOME HOUSEHOLDS - Persons or families whose incomes do not exceed 120% of the area median income for the Ventura County Metropolitan Statistical Area, adjusted for family size and revised annually, as defined in Cal. Health and Safety Code, Section 50093.

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

(M) INCLUSIONARY HOUSING UNIT - A dwelling unit that is required under Section 16-415C of this Division.

(N) MARKET-RATE UNIT - A dwelling unit that is not an Affordable Unit.

(O) RENT - The definition set forth in Cal. Code of Regulations, Section 6918. Monthly rent shall be an average of estimated costs for the next twelve months. Rent is inclusive of the total of monthly payments for a rental or cooperative unit for:

(1) Use and occupancy of a housing unit and land and facilities associated therewith.

(2) Any separately charged fees or service charges assessed by the lessor which are required of all tenants, other than security deposits.

(3) A reasonable allowance for utilities not included in (1) or (2) above, including garbage collection, sewer, water, electricity, gas, and other heating, cooking and refrigeration fuels. Utilities does not include telephone service. Such an allowance shall take into consideration the cost of an adequate level of service.

(4) Possessory interest, taxes, or other fees or charges assessed for use of the land and facilities associated therewith by a public or private entity other than the lessor.

(P) 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))

(Q) TOTAL UNITS AND TOTAL DWELLING UNITS -Dwelling units other than density bonus units. (Cal. Gov't Code, Section 65915(o)(6))

(R) ZONING ORDINANCE - Chapters 16 and 17 of the City of Oxnard Municipal Code.

SEC. 16-415C. AFFORDABLE UNIT REQUIREMENTS.

Part 3-(A) For-Sale Development. All new residential developments projects containing ~~ten~~ six (6~~4~~) or more dwelling units to be offered for sale shall include a number of dwelling units equal

to not less than ~~10~~⁵% of the total number of dwelling units, not inclusive of density bonus units, offered for sale in the development projects that shall be sold at an affordable housing cost to ~~persons and families of~~ lower income households, as defined in California Health and Safety Code Section 50079.5, and shall include an additional number of dwelling units equal to not less than 10% of the total number of dwelling units in the development, not inclusive of density bonus units, that shall be sold at an affordable housing cost to moderate income households, as defined in California Health and Safety Code Section 50093. All affordable dwelling unit calculations resulting in fractional units shall be rounded up to the next whole number. If the number of bedrooms per unit varies within a development, the number of affordable lower income and moderate income units of each bedroom numbers must meet the requirements of this part 3, i.e., ~~affordable units shall be proportionately distributed throughout the development by bedroom size.~~ Each such affordable dwelling unit shall have at least three bedrooms, provided that if a project contains at least ten two-bedroom units, two-bedroom affordable units may be provided in the same percentage ratio to all affordable units as the percentage ratio of two-bedroom market rate units bears to the total number of market rate units in the project. For purposes of this ~~ordinance~~Division, the term "units offered for sale" includes single residences, attached dwelling units and units classified as condominium units under California law. All affordable units must be of similar size, shape, quality and appearance (including all interior and exterior finishes) as the units not reserved to be affordable.

Part 4 (B) Rental Development. All new residential developments projects containing ~~ten six~~ (6~~4~~⁰) or more dwelling units to be offered for rent shall include a number of dwelling units equal to not less than 5% of the total number of dwelling units in the development, not inclusive of density bonus units, offered for rent that shall be rented at an affordable rent to ~~persons and families of~~ very low income households, as defined in California Health and Safety Code Section 50105, and shall include an additional number of dwelling units equal to not less than ~~5%~~¹⁰% of the total number of dwelling units in the development projects offered for rent at an affordable rent to ~~persons and families of~~ lower income households, as defined in California Health and Safety Code Section 50079.5. All affordable dwelling unit calculations resulting in fractional units shall be rounded up to the next whole number. For purposes of this Division, the term "units offered for rent" includes single residences, attached dwelling units and accessory dwelling units. If the number of bedrooms per unit varies within a development project, the number of low and very low-income units of each bedroom number must meet the requirements where ~~the of this Section part 4,~~ i.e. affordable units shall be proportionately distributed throughout the development projects by bedroom size. All affordable units must be of the similar size, shape, quality and appearance (including all interior and exterior finishes) as the units not reserved to be affordable.

SEC. 16-415D. AFFORDABLE HOUSING COSTS.

Part 5. (A) Housing Cost or Rent. As used in this ordinance, the term "housing cost" includes the costs ~~described in 25 California Code of Regulations section 6920,~~ except that in determining housing cost under this ordinance the amount paid for maintenance and utilities will not be included. For purposes of calculating mortgage loan cost, a prevailing market interest rate for a fixed interest rate loan will be used. As used in this ordinance, the word "rent" has the meaning ascribed to such word in ~~25 California Code of Regulations section 6918.~~ For the purposes of this Division Ordinance, "affordable housing cost or rent" shall mean:

(1) ~~As used in this Division, the term "housing cost" includes the costs described in 25 California Code of Regulations Section 6920. Affordable housing cost for any for-sale and owner-occupied housing shall not exceed the "affordable housing cost" as defined in Section 50052.5 of the California Health and Safety Code for each income category, based on~~ With respect to a lower-income person or family, rent or housing cost not in excess of 30% of 70%80% of the area median income for the Ventura County Metropolitan Statistical Area, adjusted for household family size appropriate for the unit in question, as set forth in Section 6932 of Title 25 of the California Code of Regulations; and.

(2) ~~With respect to a very low-income person or family, rent or housing cost not in excess of 30% of 50%~~ As used in this Division, the word "rent" has the meaning ascribed to such word in 25 California Code of Regulations Section 6918. Affordable rent, including a reasonable utility allowance, shall not exceed the calculation outlined for each income category in California Health and Safety Code 50053 based on the area median income for the Ventura County Metropolitan Statistical Area, adjusted for household family size appropriate for the unit in question, as set forth in Section 6932 of Title 25 of the California Code of Regulations.

(B) ~~Prior to offering for sale or rental the first unit which the developer intends to qualify as an affordable unit under Part 3 or Part 4 of this ordinance~~ Section 16.415C, the developer shall submit to the City's Housing Director the proposed sale price or rental amount for all affordable units and the dates upon which the affordable units will be offered for sale or rental, and thereafter, any other information requested by the City's Housing Director. The Housing Director shall review the information submitted, and within 30 days of receipt of all requested information, shall determine whether the sales price or rental amount is affordable as provided in ~~Part 3 or Part 4~~ this Division. Thereafter, if the developer desires to increase the sales price or rental amount for any ~~for sale~~ affordable units, the developer must obtain the approval of the Housing Director. A developer may appeal a decision of the Housing Director made pursuant to ~~this Part 5~~ Section 16-415L. ~~within the time and following the procedures (including payment of the fee) set forth in the Oxnard City Code section 16-545 et seq. for appeal of a decision of the Planning Commission denying a special use permit.~~

SEC. 16-415E. AFFORDABLE HOUSING AGREEMENT AND EQUITY SHARE AGREEMENT

~~Part 6. Not later than the date of application for the first building permit for a project that is subject to Part 3 or 4 of this ordinance;~~ (A) The developer will be required to enter into an Affordable Housing Agreement with the the City, and if applicable, the developer must also require that all initial buyers of the affordable units offered for sale execute an Equity Share Agreement with the City or its designee pursuant to and in compliance with this Division. The agreements shall be in the form provided by the City which shall contain terms and conditions mandated by, or necessary to implement, State law and this article. The Housing Director may designate a qualified administrator or entity to administer the provisions of this Section on behalf of the City. The Affordable Housing Agreement shall be recorded in the office of the Ventura County Recorder prior to, or concurrently with, final map recordation or, where the qualified housing development does not include a map, prior to issuance of a building permit for any structure on the site. The Housing Director is hereby authorized to enter into the agreements authorized by this Section on behalf of the City upon approval of the agreements by City Attorney for legal form and sufficiency.

(B) Minimum affordable housing component.

The following requirements apply to units identified under Section 16-415C:

(1) For-Sale Units. For-sale lower and moderate income units shall have a maximum term of affordability of 45 years and shall be subject to an Equity Sharing Agreement, unless the Equity Sharing Agreement is in conflict with the requirements of another public funding source or law. If a Resale Restriction agreement or other affordability agreement is required for the development by another public funding source or law, the minimum term of the affordability restriction shall be 45 years or the minimum term required by the applicable public funding source or law, whichever is longer. The initial eligible buyer of an Affordable Unit offered for sale must enter into an Equity Share Agreement with the City. The Equity Share Agreement shall be recorded as a lien against the purchased property, securing and stating the City's equity share in the property. The City shall enforce the equity sharing agreement unless it is in conflict with the requirements of another public funding source or law. The equity sharing agreement shall include at a minimum the following provisions:

(a) The initial buyers of all for-sale units required under this Division are lower or moderate income households, as required, and that the units are offered at an affordable housing cost, as that cost is defined in Section 16.415C.

(b) Purchasers of affordable units shall be required to occupy the unit except with approval from the City. Evidence must be presented to the City that the owner is unable to occupy the unit due to illness or incapacity. In such cases, the unit shall be rented to a person within the same household income category designated for the Affordable Unit;

(c) Upon the first resale, the seller of the unit shall retain the value of any improvements, the down payment, and the seller's proportionate share of appreciation. Any Improvements must be constructed with a building permit. For the first 45-years of the equity-share agreement, upon the first resale, the City shall recapture any initial subsidy, as defined in subparagraph (d) below, and its proportionate share of appreciation, as defined in subparagraph (e), which shall be deposited in the City's Affordable Housing Trust Fund. If the first resale occurs after the 45-year term of the equity share agreement, the seller of the unit shall retain the value of any improvements, the initial subsidy and the full appreciation;

(d) For purposes of this subdivision, the City's initial subsidy shall be equal to the fair market value of the home at the time of initial sale minus the initial sale price to the lower or moderate-income household, plus the amount of any down payment assistance or mortgage assistance. If upon resale the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value;

(e) The City's proportionate share of appreciation shall be equal to the ratio of the City's initial subsidy to the fair market value of the unit at the time of initial sale.

(f) Resale Procedures. The owner of an inclusionary housing unit must give the City thirty days' notice of the owner's intent to sell or transfer the property. The owner must complete a pest control report and allow the City to inspect the property. The City will complete an appraisal to determine the unrestricted fair market value and decide within that 30-day period whether or not to exercise its option to purchase the property at unrestricted fair market value. If the City decides to exercise its option, or to assign the option to another person, it will close escrow within 45 days after deciding to exercise its option (assuming that the seller has met the

terms of the purchase agreement). If the City exercises its option, and the seller desires to dispute the property's unrestricted fair market value, the seller must complete an appraisal at the seller's expense. If the City and the seller cannot agree on the property's unrestricted fair market value, the parties will select a third appraiser to determine the purchase price, with the City and seller sharing equally in the cost of the appraisal.

(g) If the City decides not to exercise its option, then the homeowner may sell the property on the open market at unrestricted fair market value, subject to an appraisal and approval by the Housing Director. At least 15 days but not more than 45 days before the close of escrow, the seller must give the City the documentation to ensure that the unit is being sold at unrestricted fair market value.

(h) Permitted Transfers. No permission from the City is required for the following transfers, but all owners of the inclusionary housing unit remain bound by the Equity share agreement and City note:

i. A good faith transfer by an owner to a spouse or domestic partner where the spouse or domestic partner becomes the co-owner of the property;

ii. Transfer between spouses as part of a dissolution proceeding, or between domestic partners as part of the dissolution of a domestic partnership;

iii. Transfer by an owner into an inter-vivos trust (a living trust) in which owner is the beneficiary;

iv. Transfers by will or inheritance to an existing spouse, child, or domestic partner of the owner following the death of owner, providing that any inheriting child executes a new option to purchase and equity-sharing agreement, promissory note, and deed of trust with a 30-year term or the number of years remaining on the initial term of affordability at the time of transfer, whichever is greater; and

v. Transfer by operation of law on the death of a joint tenant.

vi. The homeowner must provide the City with notice of these permitted transfers at least fifteen days before they occur, except that if a transfer occurs due to inheritance or to the death of an owner, the City must be notified within 30 days.

(2) Rental Units. Rents for lower income affordable units shall remain affordable for at least 20 years 55 years, or a longer period if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program.

(a) The developer of a qualified housing development based upon the inclusion of affordable units for rent must enter into an Affordable Housing Agreement with the City to maintain the continued affordability of the units. The agreement shall establish specific compliance standards and specific remedies available to the City if such compliance standards are not met. The agreement shall among other things, specify the number of extremely low, very low, low and moderate-income affordable units by number of bedrooms; standards for qualifying household incomes or other qualifying criteria based upon the specific development; standards for maximum rents; the person responsible for certifying tenant incomes; procedures by which vacancies will be filled; required annual report and monitoring fees; restrictions imposed on lower income affordable units on sale or transfer; and methods of enforcing such restrictions.

SEC. 16-415F. STANDARDS

~~Part 7.~~ Such All affordable units shall be designed and constructed so as to be architecturally

~~consistent with and qualitatively similar in size, shape, quality and appearance (including all interior and exterior finishes) to the units not reserved to be affordable to other units in the projects. Generally, affordable units shall be dispersed throughout the development projects. As part of the developer's application for any land use approvals required for the projects and prior to the date upon which before the land use application is deemed complete, the developer shall submit to the City planning staff such documents and plans as planning staff determines are necessary and appropriate for the City to determine documentation that the requirements of this Division have been met and that the design, quality and placement of the affordable units will not affect the quality of the development projects or the affordable units, and will not result in discrimination on any legally prohibited basis. The City Council, Planning Commission, or other decision-making person or body with final approval over the projects shall make such determination. The determination of the decision-making body shall be made exercising its sole, good faith, discretion.~~

SEC. 16-415G. OFF-SITE UNITS

~~Part 8: (A) As part of the developer's application for land use approvals required for the development projects and before prior to the date upon which the application is deemed complete, the developer of a projects that is subject to this Division may request in writing that instead of providing such affordable housing within the proposed development projects, the developer shall provide in whole or in part such affordable housing required under this Division on specified off-site land within the City's jurisdiction.~~

~~(B) All developments for which the developer makes a request to provide affordable housing required under this Division on off-site land shall be subject to the City's pre-application process. During the pre-application process, the City Council shall determine whether off-site units are permitted.~~

~~(C) The City Council shall consider the following factors in determining whether to grant a request:~~

~~(1) If the location of the off-site land is within 500 feet of US 101 or any industrially zoned property;~~

~~(2) The compatibility of the off-site land with surrounding uses with respect to issues including, but not limited to the following:~~

- ~~(a) Noise.~~
- ~~(b) Odors.~~
- ~~(c) Truck traffic and deliveries.~~
- ~~(d) Hazardous materials handling/storage.~~
- ~~(e) Air emissions.~~
- ~~(f) Soil/groundwater contamination.~~
- ~~(g) Complete sidewalk circulation systems and bus stops.~~

~~(3) The extent to which the proposed development may be designed or redesigned to allow the production of quality units on-site;~~

~~(4) The extent to which the City is meeting the affordable housing goals of its 2030 General Plan, and the City's current certified Housing Element; and~~

~~(5) The Opportunity Areas of the subject property and the off-site land as defined by the~~

California Department of Housing and Community Development and if development on the off-site land will implement Affirmatively Furthering Fair Housing objectives to increase housing mobility opportunities and provide housing choice in higher resource areas.

(D) ~~The request shall be presented to the City Council, which shall determine in its sole discretion whether the land is suitable for affordable housing.~~ If the City Council determines that the off-site land is suitable, the developer shall enter into an Affordable Housing Agreement with the City to provide affordable housing on such land. The Affordable Housing Agreement shall provide for affordable units in a number not less than the number of on-site units required by this Division for the development projects. The Affordable Housing Agreement shall contain conditions and provisions requiring the construction of such affordable units prior to or concurrent with construction of the development projects, unless the City Council determines in its sole discretion that such a condition is not necessary to ensure that the affordable units are constructed. The agreement may contain ~~such~~ other terms and conditions as the City Council determines are necessary or appropriate.

SEC. 16-415H. QUALIFIED APPLICANT LIST

~~Part 9.~~ The developer shall establish and at all times maintain a written list of Oxnard residents qualified to purchase or rent each of the affordable units. At the City's discretion, the City may maintain a written list of Oxnard residents qualified to rent or purchase affordable units; this list would supersede the developer's list. The developer shall affirmatively market the affordable units to qualified Oxnard resident buyers or renters on the waiting list first, for a period of no less than thirty (30) days, and give preference to them until there are no qualified Oxnard residents on the waiting list. At such time, the developer may market the ~~make~~ units ~~available~~ to all other prospective buyers or renters meeting the income limitations for such units.

SEC. 16-415I. IN-LIEU FEE

(A) ~~Part 10.~~ A developer may, ~~following the procedure set forth in this Part 10,~~ make a written request that instead of providing such affordable housing units within the proposed development projects or off site, the developer make an in-lieu affordable housing payment ("Payment") to the City's Affordable Housing ~~In-Lieu-Fee~~ Trust Fund.

(B) All ~~projects~~ developments for which the developer makes a request to make a payment shall be subject to the City's pre-application process. During the pre-application process, the City Council shall determine whether an in-lieu payment may be made.

(C) The City Council shall consider the following factors in determining whether to grant a request:

(1) the size, type and nature of the lots and homes ~~and/or~~ apartment buildings and units proposed for the development;

(2) the prices for which the developer plans to sell the market rate homes or rent market rate apartment units;

(3) the extent to which the proposed development may be designed or redesigned to allow the production of quality units at lower costs; and

(4) the extent to which the City is meeting the affordable housing goals of its 2030 General Plan, and the City's current certified Housing Element.

(5) the Opportunity Area of the site as defined by the California Department of Housing and Community Development and if development on the site will implement Affirmatively Furthering Fair Housing objectives to increase housing mobility opportunities and provide housing choice in higher resource areas.

(D) If the request is granted, the payment shall be calculated using the City's adopted affordable-housing in-lieu fee ordinance schedule. The payment is based on the total number of units, not including density bonus units, multiplied by the adopted in-lieu fee for the type of development.

(E) Beginning on July 1, 2021, and every July 1st thereafter, the Housing Director or designee shall adjust the Fee by the percentage increase or decrease for the prior twelve months as stipulated in the City's adopted housing in-lieu fee ordinance, determined by Engineering News Record Building Cost Index for the Los Angeles Region.

(F) ~~Part H~~ If a developer's request to make an in-lieu payment is granted, the full and complete fee for the entire development shall be paid prior to issuance of any building permit. The fee for each unit shall be paid when the developer pulls a building permit for each unit. Within 60 days after a developer's request to make a payment is granted, the developer may request in writing that the City allow the developer to satisfy all or part of the payment by dedicating specified off-site land to the City. With such a request, the developer shall submit a written Members of the Appraisal Institute (MAI) M.A.I. appraisal of the land. The City may require that the developer pay for an additional M.A.I. MAI appraisal obtained by the City. The Housing Director or designee The City Council shall determine make a recommendation to the City Council on the market value of the land based on the appraisals provided or paid for by the developer and any other reliable data. The Housing Director or designee shall make a recommendation to the City Council regarding the land's market value. The City Council shall also determine make a recommendation to the City Council as to whether the land is suitable for affordable housing and meets the City's needs for sites for affordable housing. If the City Council so determines and the Mayor executes a certificate of acceptance for the land, the City shall apply the market value of the land to the payment owed. If the market value of the land is less than the payment, the developer shall pay the difference. If the market value of the land is more than the payment, dedication of the land shall be deemed the equivalent of making the payment, and the developer shall not be entitled to any payment for the excess market value. The developer shall deed to the City land so accepted before the developer applies for the first building permit for the development project. The City Council shall have sole discretion as to acceptance of the developer's request to satisfy all or part of the in-lieu payment with dedicated land.

(G) All in-lieu affordable housing payments shall be deposited in the City's Affordable Housing Trust Fund and used exclusively to provide or assure the continued provision of affordable housing in the City of Oxnard through site acquisition, construction, development assistance, rehabilitation to preserve existing affordable housing stock, subsidies, financing, costs of administering affordable housing program, and any other assistance that will serve to increase or maintain the supply of affordable housing in the City. to provide affordable housing and affordable housing assistance to persons and families of lower and very low income The Housing Department will report annually to the City Council on the use of the City's Affordable Housing Trust Fund.

SEC. 16-415J. APPLICABILITY

(A) The provisions of this division shall apply to all new residential developments containing six (6) or more dwelling units. This Division applies prospectively only. It shall not apply to applications which have been submitted to the Planning Division for entitlement processing prior to the Inclusionary Housing Ordinance effective date.

(B) Nothing in this Division prohibits the City from negotiating a modified affordability percentage pursuant to a Development Agreement or as stipulated in a City approved Specific Plan area.

SEC. 16-415K. RELATION TO DENSITY BONUS

~~Part 15.~~In a development project that receives a density bonus pursuant to Government Code Section 65915 or 65915.5, the calculation pursuant to ~~Part 3 or Part 4~~ Section 16.415C of this Division ordinance of the number of dwelling units to be offered for sale or rent shall be based on the number of units before the density bonus is applied. ~~Affordable units provided pursuant to this ordinance shall not be included in the calculation of affordable units provided pursuant to density bonus statutes, ordinances or resolutions.~~

SEC. 16-415L. APPEALS

~~Part 12.~~ A developer may appeal to the City Council a decision of the Housing Director or Planning Commission requiring compliance with this Division, on the ground that such application of this Division to the development results in an unconstitutional taking of property or that there is no reasonable relationship between the impact of the development and such requirements.

(A) Administrative permit - A determination by the Housing Director may be appealed to a hearing officer in accordance with the administrative hearing procedures set forth in Article V of Chapter 1 of the City Code.

(B) Discretionary permit - A determination made by the Planning Commission for Inclusionary Housing in conjunction with a discretionary land use application may be appealed to the City Council by the applicant or any aggrieved person within 18 calendar days of the date of the determination. Such appeal shall be delivered in writing to the City Clerk. Prior to the appeal taking place, an appeal fee as set by City Council resolution shall be collected from the appellant. The City Clerk shall set a hearing date within 30 days of receipt of the appeal. The City Council decision shall be final.

SEC. 16-415M INTERPRETATION OF THIS DIVISION 7B.

(A) No effect on other sites - Nothing in this Division 7B prevents all or partially affordable housing developments being developed pursuant to the applicable 2030 General Plan, Housing Element, Oxnard City Code, zoning designations, density bonus permit process, development standards, California Environmental Quality Act review, and applicable permitting procedures.

(B) Development standards - Nothing in this Division 7B shall be interpreted to require the City to waive or reduce development standards if the waiver or reduction would have a specific,

adverse impact, as defined by Cal. Gov't Code, Section 65589.5(d)(2), upon health, safety, the physical environment, or any real property listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact.

(C) Design - Nothing in this Division 7B shall be interpreted as authorizing or encouraging the development of affordable housing with lower quality design compared with market-rate developments. Affordable developments are held to the same building codes, landscape requirements, and exterior architectural standards as comparable and contemporaneous market-rate developments.

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