

## **Oxnard, Ca Municipal Code: Affordable and Inclusionary Housing**

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### **DIVISION 7. INCENTIVES TO CREATE AFFORDABLE HOUSING**

#### **SEC. 16-410. PURPOSE.**

The purpose of this division is to adopt methods and procedures for providing density bonuses and other incentives and concessions to create affordable housing, as required by the Gov't Code, Section 65915.

(64 Code, Sec. 36-7.14.1) (Ord. No. 2505, 2630)

**SEC. 16-411. DENSITY BONUSES AND OTHER INCENTIVES.**

When an applicant proposes a housing development within the city's jurisdiction that meets the requirements set out in Cal. Gov't Code, Section 65915(b), the actions and procedures set out in sections 16-413 through 16-423 shall apply. The burden is on the applicant to show that the housing development meets such requirements.

(64 Code, Sec. 36-7.14.2) (Ord. No. 2505, 2630)

**SEC. 16-412. DEFINITIONS.**

(A) **AFFORDABLE HOUSING and AFFORDABLE UNITS** - Units constructed for lower or very low income households, or qualifying residents, or persons and families of moderate income, as defined in Cal. Gov't Code, Section 65915(b) and any other applicable federal and State laws.

(B) **DENSITY BONUS** - A density increase of 25% over the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the general plan as of the date of application to the city. The density bonus shall not be included when determining the number of housing units equal to 10, 20 or 50% of the total. The density bonus shall apply to housing developments consisting of five or more dwelling units. The applicant may elect a density bonus in a lesser percentage than 25%.

(C) Notwithstanding subsection (B) above, the term **DENSITY BONUS** shall have the meaning set out in Cal. Gov't Code, Section 65915(g)(2) when the proposed development meets the standards described therein.

(64 Code, Sec. 36-7.14.3) (Ord. No. 2505, 2630)

**SEC. 16-413. FEES.**

(A) An application for a density bonus permit shall be accompanied by the fee set by resolution of the city council.

(B) If an application for a density bonus permit requires an unusual amount or specialized type of study or evaluation by city staff, a consultant or legal counsel, city staff shall estimate the cost thereof and require the applicant to pay an additional fee or make one or more deposits to pay therefor before the study or evaluation is begun. On completion of the study or evaluation, and before the city council decides the application, city staff shall determine the actual cost of the work and the difference between the actual cost and the amount paid by the applicant, and shall require the applicant to pay any deficiency or shall refund to the applicant any excess.

(64 Code, Sec. 36-7.14.4) (Ord. No. 2505, 2630)

**SEC. 16-414. APPLICATION REQUIRED.**

(A) When an applicant proposes to construct a project that meets the criteria set out in the Gov't Code, Section 65915(b) and requests a density bonus or other concession or incentive pursuant thereto, the applicant shall file an application for a density bonus permit, whether or not the project also requires or has been granted a special use permit or other permits or approvals.

(B) The applicant may request a meeting with city staff to discuss the specific incentives or concessions requested in the application, including a waiver or reduction of development standards.

(`64 Code, Sec. 36-7.14.6) (Ord. No. 2505, 2630)

**SEC. 16-415. CONTENT OF APPLICATION.**

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

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

(B) A description of the density bonus and other concessions and incentives requested, if any. The city council shall adopt by resolution a list of concessions and incentives that the developer may request.

(C) If such concessions and incentives include the waiver or modification of development or zoning standards that would otherwise inhibit or prevent the utilization of the density bonus on specific sites or the construction of the proposed project, an analysis showing that the waiver, reduction or modification is necessary to make the affordable units economically feasible. The form of such analysis is contained in section 16-423.

(D) The proposed sale or rental price of all units, and especially of the affordable units;

(E) The proposed method to guarantee that the applicant will establish the sales or rental prices as stated in the application;

(F) The proposed method of ensuring the continued affordability of the affordable units for at least 30 years; and

(G) Other relevant information requested by city staff.

(`64 Code, Sec. 36-7.14.7) (Ord. No. 2505, 2630)

**SEC. 16-416. CERTAIN OTHER APPLICATIONS NOT REQUIRED.**

The granting of a density bonus or concession or incentive shall not, in and of itself, require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary approval.

(Ord. No. 2630)

**SEC. 16-417. PROJECT DESIGN.**

City staff shall require the applicant to design the project so that the affordable units are dispersed throughout the project, have a number of bedrooms proportionate to the number of bedrooms in other units in the project, and do not differ in appearance, size or amenities from other units in the project; provided, however, that the interior appearance and amenities of affordable units may differ from other units in the project if a concession or incentive included in the resolution referred to in section 16-415(B) is granted, specifying such differences.

(64 Code, Sec. 36-7.14.9) (Ord. No. 2505, 2630)

**SEC. 16-418. STAFF RECOMMENDATION.**

City staff may require the applicant to clarify, amplify, correct or otherwise supplement the application. After city staff deems the application to be complete, city staff shall make a recommendation to the planning commission concerning the density bonus and any additional concessions or incentives.

(64 Code, Sec. 36-7-14.8, 36-7.14.10) (Ord. No. 2505, 2630)

**SEC. 16-419. PROCEDURES FOR PLANNING COMMISSION TO MAKE RECOMMENDATION.**

(A) The secretary of the planning commission shall give notice as provided in Cal. Gov't Code, Section 65091 of the planning commission's public hearing of the application for a density bonus permit. At the same time, the secretary shall also give the applicant written notice of the date, time and place of the hearing.

(B) The planning commission shall hold a public hearing on the application for a density bonus permit. The planning commission may continue the public hearing. Not more than 30 days after the close of the public hearing, the commission shall adopt a resolution recommending to the city council that the application be approved or denied, and stating any conditions to approval of the application.

(C) If the project meets the requirements set out in subsection (F), the planning commission shall recommend that a density bonus permit be granted, including a density bonus and at least one additional concession or incentive, except as set out in subsections (D) and (E). The planning commission shall recommend approval of the concession or

incentive requested by the applicant unless the planning commission makes a written finding, based on substantial evidence, of either of the following:

(1) The concession or incentive is not required in order to provide for affordable housing costs, as defined in Cal. Health and Safety Code, Section 50052.5, or for rents for the targeted units to be set as specified in Cal. Gov't Code, Section 65915(c).

(2) The concession or incentive would have a specific adverse effect, as defined in Cal. Gov't Code, Section 65589.5(d)(2), on public health and safety or the physical environment or on 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 without rendering the development unaffordable to low and moderate income households.

(D) The planning commission may recommend that a density bonus be granted but that no additional concession or incentive be granted if the planning commission makes a written finding, based on substantial evidence, that the additional concession or incentive is not required in order to provide for affordable housing costs, as defined in Cal. Health and Safety Code, Section 50052.5, or for rents for the targeted units to be set as specified in Cal. Gov't Code, Section 65915.

(E) The planning commission may recommend that instead of a density bonus and at least one other concession or incentive identified in Cal. Gov't Code, Section 65915(k), the applicant be granted other incentives or concessions of equivalent financial value based on the land cost per dwelling unit.

(F) Before recommending that a density bonus permit be granted, the applicant must show and the planning commission must make the following findings:

(1) The project meets the criteria set out in Cal. Gov't Code, Section 65915(b).

(2) If the incentive or concession includes the waiver, reduction or modification of development or zoning standards, the waiver, reduction or modification is necessary to make the affordable units economically feasible. Such feasibility shall be shown by an analysis prepared as described in section 16-423 .

(3) The applicant has proposed a satisfactory method to guarantee that the sales or rental prices will be established as stated in the application.

(4) The applicant has agreed to execute the agreement referred to in section 16-422.

(5) The affordable units are dispersed throughout the project, have a number of bedrooms proportionate to the number of bedrooms in other units in the project, and do not differ in appearance, size and amenities from other units in the project, except as provided in section 16-417.

(64 Code, Sec. 36-7.14.10) (Ord. No. 2505, 2630, 2651)

**SEC. 16-420. PROCEDURES FOR CITY COUNCIL TO DECIDE APPLICATION.**

(A) Within 30 days of the date that the planning commission renders its decision, the city council shall hold a public hearing on the application for a density bonus permit and shall consider the planning commission's recommendation, which the city council may affirm, deny or modify. The city clerk shall give notice of the hearing as provided in Cal. Gov't Code, Section 65091. At the same time, the city clerk shall also give the applicant written notice of the date, time and place of the hearing. The city council may continue the public hearing.

(B) Within 30 days of the close of the public hearing, the city council shall adopt a resolution granting or denying the application for a density bonus permit. If the project meets the requirements set out in subsection 16-419(F), the city council shall grant a density bonus permit, including a density bonus and at least one additional concession or incentive, except as set out in subsections (C) and (D). The city council shall grant the concession or incentive requested by the applicant unless the city council makes a written finding, based on substantial evidence, of either of the following:

(1) The concession or incentive is not required in order to provide for affordable housing costs, as defined in Cal. Health and Safety Code, Section 50052.5, or for rents for the targeted units to be set as specified in Cal. Gov't Code, Section 65915(c).

(2) The concession or incentive would have a specific adverse effect, as defined in Cal. Gov't Code, Section 65589.5(d)(2), on public health and safety or the physical environment or on 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 without rendering the development unaffordable to low and moderate income households.

(C) The city council may grant a density bonus but not additional concession or incentive if the city council makes a written finding, based on substantial evidence, that the additional concession or incentive is not required in order to provide for affordable housing costs, as defined in Cal. Health and Safety Code, Section 50052.5, or for rents for the targeted units to be set as specified in Cal. Gov't Code, Section 65915(c).

(D) Instead of a density bonus and at least one other concession or incentive identified in Cal. Gov't Code, Section 65915(k), the city council may grant the applicant other incentives or concessions of equivalent financial value based on the land cost per dwelling unit.

(E) If the city council grants a density bonus permit, the resolution shall include the findings set out in subsection 16-419(F)(1) - (5) and shall state any conditions on which the permit is approved.

(F) A density bonus permit shall automatically expire, without notice or hearing, two years after the date of adoption of the city council resolution granting the permit, unless by that date the project for which the permit was granted is complete or is substantially underway, as shown by issuance of a grading, foundation or building permit and the construction of substantial improvements.

(^ 64 Code, Sec. 36-7.14.11) (Ord. No. 2505, 2630, 2651)

**SEC. 16-421. WAIVER, REDUCTION OR MODIFICATION OF STANDARDS.**

Procedures by which an applicant proposing a housing development that meets the requirements set out in Cal. Gov't Code, Section 65915(b) may apply for the waiver, reduction or modification of development and zoning standards governing such items as minimum lot size, side yard setbacks and placement of public works improvements include:

(A) Application for amendment of the ordinance or other enactment imposing such standards;

(B) If the subject property is in a planned development zone, application for exercise of the discretion granted to the planning commission in planned development zones;

(C) If the subject property is not in a planned development zone, application for a zone change to add a planned development overlay to the zoning of the subject property, together with application for exercise of the discretion granted to the planning commission in planned development zones;

(D) Application for a planned residential group;

(E) Application for a density bonus permit; and

(F) Application for a variance.

(^ 64 Code, Sec. 36-7.14.12) (Ord. No. 2505, 2630)

**SEC. 16-422. CONTINUED AFFORDABILITY.**

(A) No project may be granted a density bonus or other concession or incentive pursuant to Cal. Gov't Code, Section 65915 unless the applicant executes an agreement in a form approved by both the city attorney and the director of housing or the secretary of the community development commission, ensuring the continued affordability of affordable units. The agreement shall be recorded before final map or parcel map approval or, if a map is not part of the project, before issuance of building permits.

(B) Except as provided in Cal. Gov't Code Section 65915(c)(2), the term of the agreement shall be 30 years, or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program.

(C) 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 affordable units by number of bedrooms; standards for qualifying household incomes or other qualifying criteria, such as age; standards for maximum rents or sales prices; the person responsible for certifying tenant or owner incomes; procedures by which vacancies will be filled and units sold; required annual report and monitoring fees; restrictions imposed on affordable units on sale or transfer; and methods of enforcing such restrictions.

(64 Code, Sec. 36-7.14.13) (Ord. No. 2505, 2630)

### **SEC. 16-423. FEASIBILITY ANALYSIS.**

(A) The feasibility analysis referred to in subsections 16-415(C) and 16-419(F)(2) shall identify the potential gap between construction costs and unit sales prices affordable to the target income groups, and the incentives necessary to bridge the gap.

(B) The analysis shall include:

- (1) The number of affordable units proposed and the target income groups;
- (2) An estimate of the financial gap per unit and for all affordable units in the project. The estimate shall be based on affordable sales prices for the affordable units, calculated on the basis of county income data;
- (3) Identification of incentives requested by the applicant and the estimated financial value thereof;
- (4) Identification of any gap financing requested of the city, the Oxnard Housing Authority or the Oxnard Community Development Commission; and
- (5) Identification of the applicant's financial contribution to bridge the gap, such as reduced or eliminated profit on affordable units.

(64 Code, Sec. 36-7.14.14) (Ord. No. 2505, 2630)

## **DIVISION 8. INCENTIVES TO CONVERT APARTMENTS TO AFFORDABLE CONDOMINIUM UNITS**

### **SEC. 16-425. PURPOSE.**

The purpose of this division is to adopt methods and procedures for processing applications to convert apartments to condominium units, some of which are set aside for moderate, low or lower income households, as required by Cal. Gov't Code, Section 65915.5.

( 64 Code, Sec. 36-7.15.1) (Ord. No. 2505)

**SEC. 16-426. CONDOMINIUM DENSITY BONUSES AND OTHER INCENTIVES.**

When an applicant for approval to convert apartments to condominium units agrees to provide the percentage of units for moderate, low or lower income persons, families and households set out in Cal. Gov't Code, Section 65915.5, and agrees to pay the reasonably necessary administrative costs incurred by the city, or submits a preliminary proposal for such a project pursuant to Cal. Gov't Code, Section 65915.5, the actions and procedures set out in sections 16-428 through 16-436 shall apply.

( 64 Code, Sec. 36-7.15.2) (Ord. No. 2505)

**SEC. 16-427. DEFINITIONS.**

(A) AFFORDABLE UNITS - Units set aside for moderate, low or lower income households in accordance with Cal. Gov't Code, Section 65915.5.

(B) DENSITY BONUS - The meaning set out in subsection 16-412(B).

( 64 Code, Sec. 36-7.15.3) (Ord. No. 2505)

**SEC. 16-428. FEES.**

(A) A preliminary proposal, referred to in section 16-429, and an application for a condominium density bonus permit, referred to in section 16-430, shall be accompanied by the fee set by resolution of the city council. City staff shall not act on a preliminary proposal or an application that is not accompanied by the fee.

(B) If a preliminary proposal or an application for a condominium density bonus permit requires an unusual amount or specialized type of study or evaluation by city staff, a consultant or legal counsel, city staff shall estimate the cost thereof and require the applicant to pay an additional fee or make one or more deposits to pay therefor before the study or evaluation is begun. On completion of the study or evaluation, and before city staff responds to the preliminary proposal or the city council decides the application, city staff shall determine the actual cost of the work and the difference between the actual cost and the amount paid by the applicant, and shall require the applicant to pay any deficiency or shall refund to the applicant any excess.

( 64 Code, Sec. 36-7.15.4) (Ord. No. 2505)

**SEC. 16-429. PRELIMINARY PROPOSAL.**

(A) If a developer submits a preliminary proposal for the conversion of apartments to condominiums pursuant to Cal. Gov't Code, Section 65915.5 before submitting any formal requests for subdivision map approvals, city staff shall, within 90 days of receiving the proposal, notify the developer in writing that the city will apply the procedures set out in this division in order to comply with Cal. Gov't Code, Section 65915.5.

(B) The preliminary proposal shall conform to subsection 16-414(B), and city staff may require the additional information referred to therein.

(^ 64 Code, Sec. 36-7.15.5) (Ord. No. 2505)

**SEC. 16-430. APPLICATION FOR CONDOMINIUM DENSITY BONUS PERMIT.**

When a developer agrees or proposes to convert apartments to condominiums and to set aside condominium units for moderate, low or lower income households in accordance with the criteria contained in Cal. Gov't Code, Section 65915.5, the developer shall file an application for a condominium density bonus permit, whether or not the project also requires or has been granted a special use permit pursuant to section 16-395 or sections 16-380 through 16-389, or any other provision of the code, or requires or has been granted any other permits or approvals.

(^ 64 Code, Sec. 36-7.15.6) (Ord. No. 2505)

**SEC. 16-431. CONTENT OF APPLICATION.**

The application for a condominium density bonus permit shall include the following information:

(A) A description of the project, including the number of condominium units, the number of affordable units, and the location of the affordable units;

(B) A description of the requested density bonus or other incentives of equivalent financial value. The city council shall adopt by resolution a list of incentives that the developer may request.

(C) The proposed sale or rental price of all units, and especially of the project's affordable units;

(D) The proposed method to guarantee that the developer will establish the sales or rental prices as stated in the application;

(E) The proposed method of ensuring the continued affordability of the affordable units for at least 30 years; and

(F) Other relevant information requested by city staff.

(^ 64 Code, Sec. 36-7.15.7) (Ord. No. 2505)

**SEC. 16-432. SUPPLEMENTING APPLICATION.**

City staff may require the applicant to clarify, amplify, correct or otherwise supplement the application.

(^ 64 Code, Sec. 36-7.15.8) (Ord. No. 2505)

**SEC. 16-433. PROJECT DESIGN.**

City staff shall require the applicant to design the project so that the affordable units are dispersed throughout the project, have a number of bedrooms proportionate to the number of bedrooms in other units in the project, and do not differ in appearance, size and amenities from other units in the project; provided, however, that the interior appearance and amenities of the affordable units may differ from other units in the project if an incentive included in the resolution referred to in subsection 16-431(B) is granted, specifying such differences.

(^ 64 Code, Sec. 36-7.15.9) (Ord. No. 2505)

**SEC. 16-434. STAFF RECOMMENDATION.**

After city staff deems the application to be complete, city staff shall make a recommendation to the commission concerning the density bonus or any other incentive.

(^ 64 Code, Sec. 36-7.15.10) (Ord. No. 2505)

**SEC. 16-435. PROCEDURE TO DECIDE APPLICATION.**

(A) The secretary of the commission shall give notice as provided in Cal. Gov't Code, Section 65091 of the commission's public hearing of the application for a condominium density bonus permit. At the same time, the secretary shall also give the applicant written notice of the date, time and place of the hearing.

(B) The commission shall hold a public hearing on the application for a condominium density bonus permit. The commission may continue the public hearing. Not more than 30 days after the close of the public hearing, the commission shall adopt a resolution recommending to the city council that the application be approved or denied, and stating any conditions to approval of the application.

(C) If the commission recommends approval of a condominium density bonus permit, the commission may recommend a density bonus or incentives the same as or different from those requested by the applicant or recommended by city staff.

(D) Before recommending approval of a condominium density bonus permit, the applicant must show and the commission must make the following findings regarding the project and the proposed density bonus or other incentives recommended for approval:

(1) The project meets the criteria set out in Cal. Gov't Code, Section 65915.5.

(2) The density bonus or incentives will not adversely affect or be materially detrimental to uses or property adjacent to the subject property or to the public health, safety or welfare.

(3) The subject property is adequate in size and shape and served by adequate infrastructure to accommodate the density bonus or incentives.

(4) If one or more incentives are recommended instead of a density bonus, such incentive or incentives are of equivalent financial value to a 25 % density bonus.

(5) The applicant has proposed a satisfactory method to guarantee that the sales or rental prices will be established as stated in the application.

(6) The applicant has agreed to execute the agreement referred to in section 16-422.

(7) The affordable units are dispersed throughout the project, have a number of bedrooms proportionate to the number of bedrooms in other units in the project, and do not differ in appearance, size and amenities from other units in the project, except as provided in section 16-433.

(E) Within 30 days of the date that the commission renders its decision, the city council shall hold a public hearing on the application and shall consider the commission's recommendation, which the city council may affirm, deny or modify. The city clerk shall give notice of the hearing as provided in Cal. Gov't Code, Section 65091. At the same time, the city clerk shall also give the applicant written notice of the date, time and place of the hearing. The city council may continue the public hearing.

(F) Within 30 days of the close of the public hearing, the city council shall adopt a resolution approving or denying the application for a condominium density bonus permit. If the city council approves a condominium density bonus permit, the city council may approve a density bonus or incentives the same as or different from those requested by the applicant or recommended by the commission.

(G) If the city council approves a condominium density bonus permit, the resolution shall include the findings set out in subsections 16-420(D)(1) through (7) and shall state any conditions on which the permit is approved.

(64 Code, Sec. 36-7.15.11) (Ord. No. 2505)

**SEC. 16-436. CONTINUED AFFORDABILITY.**

No project applied for pursuant to Cal. Gov't Code, Section 65915.5 may be granted a density bonus or other incentive unless the developer executes an agreement as described in subsections 16-422(A) and (C). The term of the agreement shall be 30 years, or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program.

(64 Code, Sec. 36-7.15.12) (Ord. No. 2505)