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ORDINANCE NO. _____

ORDINANCE OF THE CITY OF CHULA VISTA AMENDING
CHULA VISTA MUNICIPAL CODE (CVMC) TITLE 19
(PLANNING AND ZONING) CHAPTER 19.90
(AFFORDABLE HOUSING INCENTIVES)

WHEREAS, California Government Code Section 65915 et seq. (“State Density Bonus Law”) is a state law granting developers the ability to develop housing at greater intensity than would otherwise be allowed by local land use regulations; and

WHEREAS, municipal governments are required by State Density Bonus Law to adopt local implementing ordinances; and

WHEREAS, Chula Vista’s local implementing ordinance, codified in Chula Vista Municipal Code (“CMVC”) Chapter 19.90 (Affordable Housing Incentives), now requires amending to remain consistent with recent changes to State Density Bonus Law; and

WHEREAS, State Density Bonus Law is amended frequently by the legislature of the State of California, and therefore amending Chula Vista’s density bonus law to defer to State Density Bonus Law wherever possible will reduce the frequency of future amendments to CVMC Chapter 19.90; and

WHEREAS, the planned amendments to CVMC Chapter 19.90 were presented to the Housing and Homeless Advisory Committee in concept at their October 25, 2023 meeting, which recommended adoption; and

WHEREAS, the Director of Development Services reviewed the proposed legislative action for compliance with the California Environmental Quality Act (“CEQA”) and determined that the action qualifies for the “common sense” exemption under State CEQA Guidelines Section 15061(b)(3). The action involves updates, modifications, and organizational changes to the CVMC relating to section titles, definitions, groups covered under density bonus, percentages, etc. Furthermore, the action of updating and modifying the CVMC with procedural and clerical changes will not result in an intensification of uses or a change in development potential within the City above what already is permitted under the existing land use and zoning policies of the CVMC that are being updated. Based on an analysis of the nature and type of these procedural and clerical changes to the CVMC, there is a certainty that there is no possibility that the action may have a significant effect on the environment; and

WHEREAS, the Planning Commission held an advertised public hearing on the subject Ordinance and voted _____ to adopt Resolution No. _____, and thereby recommends that the City Council adopt the Ordinance; and

WHEREAS, the City Council set the time and place for a hearing on the subject CVMC amendments and notice of said hearing, together with its purpose, was given by its publication in a newspaper of general circulation in the City, at least ten (10) days prior to the hearing.

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NOW THEREFORE the City Council of the City of Chula Vista does hereby find and ordain as follows:

The City Council of the City of Chula Vista finds that the proposed amendments to the CVMC identified in this Ordinance No. ____ qualifies for the “common sense” exemption under State CEQA Guidelines Section 15061(b)(3). The action involves updates, modifications, and organizational changes to the CVMC relating to section titles, definitions, groups covered under density bonus, percentages, etc. Furthermore, the action of updating and modifying the CVMC with procedural and clerical changes will not result in an intensification of uses or a change in development potential within the City above what already is permitted under the existing land use and zoning policies of the CVMC that are being updated. Based on an analysis of the nature and type of these procedural and clerical changes to the CVMC, there is a certainty that there is no possibility that the action may have a significant effect on the environment.

Section I. The Chula Vista Municipal Code Chapter 19.90 (Affordable Housing Incentives) is hereby amended, in entirety, as follows:

Chapter 19.90 DENSITY BONUS

Section:

19.90.010	Purpose
19.90.020	Applicability
19.90.030	Density Bonus Allotment
19.90.040	Density Bonus Development Standards
19.90.050	Affordability Restrictions
19.90.060	Application Requirements and Review
19.90.070	Density Bonus Agreement
19.90.080	Agreement Processing and Administrative Fee
19.90.090	Savings Clause

19.90.010 Purpose

The City of Chula Vista declares that the provision of housing in a suitable living environment for all residents is a priority of the highest order and is consistent with State, regional and national policies. The purpose of this chapter is to provide incentives for the production of affordable housing in accordance with those contained in California Government Code Section [65915](#) (“state density bonus law”). Terms and provisions not contained in this Chapter shall be defined in state density bonus law.

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This Chapter is intended to materially assist the housing industry in providing adequate and affordable shelter for all economic segments of the community and to provide a balance of housing opportunities throughout the City. It is intended that this Chapter facilitate the development of affordable housing development projects and implement the goals, objectives and policies of the City of Chula Vista General Plan Housing Element.

Nothing in this Chapter shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act.

19.90.020 Applicability

The provisions of this Chapter shall apply to a housing development as defined in state density bonus law.

19.90.030 Density Bonus Allotment

A housing development shall be entitled to receive a density bonus and incentives, concessions, waivers, or reductions of development standards as set forth in state density bonus law.

19.90.040 Density Bonus Development Standards

A. Concurrent Development. Affordable units shall be constructed concurrently with market-rate units unless both the City and the developer agree within the density bonus agreement to an alternative schedule for development.

B. Location and Dispersal of Units. Affordable units and density bonus units shall be built on site (within the boundary of the proposed development) and dispersed throughout the housing development subject to the review and approval of the City; notwithstanding the foregoing, the City may allow affordable units to be provided in a separate structure if it is determined that such an arrangement is necessary to secure an allocation of Low Income Housing Tax Credits or other affordable housing financing.

C. Bedroom Unit Mix. The housing development shall include a mix of affordable units (by number of bedrooms) consistent with the unit mix of market-rate units.

D. Compliance with Development Standards and Codes. Density bonus projects shall comply with all applicable development standards, except those which may be modified as an

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incentive/concession or will have the effect of physically precluding the construction of a development providing the affordable units at the permitted density.

E. Design Consistency. The design and appearance of the affordable units shall be consistent or compatible with the design of the market-rate units in terms of appearance, materials, and finish quality.

F. Amenities. Residents of affordable units shall be permitted the same access to project amenities and recreational facilities as market rate units.

19.90.050 Affordability Restrictions

The occupancy, rent, and income limitations and time periods of restriction of the same for housing developments using the density bonus shall be as set forth in state density bonus law.

19.90.060 Application Requirements and Review

A. Preliminary Application. A developer proposing a density bonus project pursuant to state density bonus law may submit a preliminary application prior to the submittal of any formal request for approval. Developers are encouraged to schedule a preapplication conference with designated staff of the Development Services Department and Housing and Homeless Services Department to discuss and identify potential application issues, including prospective incentives or concessions.

B. Application. The developer shall submit a density bonus application, which will be treated as a part of any other required development application, which shall set forth the requested density bonus, incentives, concessions, waivers and/or reductions of development standards. The proposed housing development may require other project development applications (e.g., tentative map, parcel map, design review, conditional use permits). Under such circumstances, the density bonus application shall be processed concurrently.

C. Approval of an Application. When a project involves a request for a density bonus, incentives, concessions, waivers or reductions of development standards, the decision-making body shall make a written finding that the project is consistent with the provisions of this chapter, as part of the approval of the development applications. The approval shall take place prior to final map approval, if applicable. If no additional development applications are required, the application shall be approved prior to the execution of the density bonus agreement. The granting of an incentive,

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concession, waiver, or reduction of development standards shall not, in and of itself, require a General Plan, local coastal plan, or zoning amendment or any other discretionary approval.

D. Denial of Application. In rejecting such development applications, the decision-making body shall make written findings in compliance with Government Code Section 65589.5(b) and based upon substantial evidence in the record.

19.90.070 Density Bonus Agreement

A. Execution of Agreement. Housing developments obtaining a density bonus shall execute a density bonus agreement with the City.

B. Recordation. Following execution of the density bonus agreement by all parties, the completed density bonus agreement shall be recorded against the housing development senior to all monetary liens. Recordation shall occur concurrently with the final map recordation, or where a map is not being processed, prior to issuance of building permits for such parcels or units. The density bonus agreement shall be binding in all future owners and successors in interest to the housing development.

C. Provisions. The following terms are required in the density bonus agreement:

1. Number of Units. The total number of units, the number of density bonus units, and the number of affordable units approved for the housing development.
2. Term of Affordability. The number of years the occupancy and affordability restrictions for affordable units remain in place.
3. Phasing Schedule. A schedule of production and occupancy of affordable units, if applicable.
4. Incentives, Concessions, Waivers, and/or Reductions in Development Standards. A description of the incentives, concessions, waivers, and/or reduction in development standards.
5. Operation and Maintenance. The rules and procedures for qualifying tenants, establishing affordable rent, filling vacancies, operating and maintaining affordable units for qualified tenants.
6. Ongoing Monitoring. Provisions requiring developers to demonstrate compliance with this chapter.

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7. Initial Sale. Where applicable, terms and conditions governing the initial sale of for-sale affordable units in compliance with Chapter 19.93 Residential For-Sale Affordable Housing.

8. Initial Lease. All affordable rental projects shall comply with Chapter 19.94 Marketing, Application, Lottery, and Waitlist Requirements for Affordable Rental Housing Projects.

9. Remedies. A description of remedies for breach of the agreement by either party.

10. Other Provisions for Compliance. Other provisions as the City may require to ensure implementation and continued compliance with this chapter and the state density bonus law.

D. Inclusionary Housing Agreement. Projects that require both an inclusionary housing agreement and density bonus agreement may be combined into one single housing regulatory agreement.

19.90.080 Agreement Processing and Administrative Fee

During the term of the density bonus agreement, the City will either directly or via one or more third parties, review applications for affordable units and monitoring of such units. The City Council may establish an administrative fee to fully recover the costs associated with such administration and monitoring, the amount of which shall be established in the Master Fee Schedule.

19.90.090 Savings Clause

A. If any provision of this chapter or the application thereof to any person or circumstances is held invalid by a court of competent jurisdiction, the remainder of the chapter and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

B. Should any conflict exist between this chapter and any other land use ordinance, regulation, resolution, policy or prior decision of the City, this chapter shall control all applicable land use applications which do not have final approval on the effective date of this chapter.

Section II. Severability

If any portion of this Ordinance, or its application to any person or circumstance, is for

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any reason held to be, invalid, unenforceable or unconstitutional; by a court of competent jurisdiction, that portion shall be deemed severable, and such invalidity, unenforceability or unconstitutionality shall not affect the validity or enforceability of the remaining portions of the Ordinance, or its application to any other person or circumstance. The City Council of the City of Chula Vista hereby declares that it would have adopted each section, sentence, clause or phrase of this Ordinance, irrespective of the fact that any one or more other sections, sentences, clauses or phrases of the Ordinance be declared invalid, unenforceable or unconstitutional.

Section III. Construction

The City Council of the City of Chula Vista intends this Ordinance to supplement, not to duplicate or contradict, applicable state and federal law and this Ordinance shall be construed in light of that intent.

Section IV. Effective Date

This Ordinance shall take effect and be in force on the thirtieth (30th) day after its final passage.

Section V. Publication.

The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

Presented by

Approved as to form by

Stacey Kurz
Director of Housing & Homeless Services

Marco A. Verdugo
City Attorney