

## *DIVISION 8. STATE MANDATED DENSITY BONUS*

### **Sec. 29.10.405. Intent and authority.**

The density bonus ordinance in this chapter is intended to comply with the State Density Bonus Law codified in California Government Code Section 65915 et seq., which provides that a local government shall grant a density bonus and an additional concession, or financially equivalent incentive(s), to a qualified housing development agreeing to construct a specific percentage of housing for lower income households, very low income households, or senior housing as defined by state law.

(Ord. No. 2209, § 1, 6-18-12)

### **Sec. 29.10.410. Applicability of regulations.**

- (a) In addition to providing a density bonus and additional concession or equivalent incentives to a qualified housing development for lower income and very low income households or senior housing, it is the intent to apply the state law density bonus to qualified physically handicapped persons. The term "physically handicapped" shall be defined pursuant to California Health and Safety Code Section 50070 and the Density Bonus Program Guidelines initially adopted by Town Council in 2012 and amended from time to time thereafter.
- (b) Applicant who elects to proceed with a housing development using the state law density bonus shall not be eligible for any density increases under the Town's General Plan Density Bonus Policy or the General Plan Below Market Price (BMP) Program as set forth in the Town's Housing Element portion of the General Plan.

(Ord. No. 2209, § 1, 6-18-12)

### **Sec. 29.10.415. General requirements.**

Applicants who voluntarily agree to develop a housing development project that complies with the affordability requirements referenced in Government Code 65915 et seq. shall conform to the Density Bonus Program Guidelines adopted by Town Council (initial adopted in 2012) and as may be amended from time to time.

(Ord. No. 2209, § 1, 6-18-12)

### **Sec. 29.10.420. Grounds for denial of a project.**

- (a) Nothing in Division 8 of this Chapter 29 limits the Town's right to deny an affordable housing project electing to proceed under the state law density bonus provisions, if the Council makes written findings, based on substantial evidence, any of the following:
  - 1. The Town has adopted a housing element as part of the general plan, and the Town has met or exceeded its share of the regional housing needs for the income category proposed for the development project;

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2. The project as proposed would have a specific, adverse impact upon the public health or safety which cannot be satisfactorily mitigated without rendering it unaffordable to lower-income households;
  3. The denial of the project or imposition of conditions is required in order to comply with State or Federal law and there is no feasible method to comply without rendering the development unaffordable to lower-income households;
  4. The development project is proposed on land zoned for agriculture or resource preservation which is surrounded on at least two sides by land being used for agricultural or resource preservation purposes, and which does not have adequate water or wastewater facilities to serve the project.
  5. The development project is inconsistent with the Town's general plan land use designation as it existed on the date the application was deemed complete, and the town has adopted a housing element pursuant to state law.
- (b) Nothing in this chapter limits the Town's right to deny a senior housing project if the Town finds, based on substantial evidence, that the project would have a specific, adverse impact upon the public health or safety; and there is no feasible method to satisfactorily mitigate or avoid the adverse impact identified.

(Ord. No. 2209, § 1, 6-18-12)

#### **Sec. 29.10.425. Housing agreement.**

Applicant requesting a state law density bonus on any rental or for sale project shall agree to enter into a density bonus housing agreement with the Town as required under the density bonus program guidelines. This housing agreement shall be made a condition of the planning permits for all residential developments pursuant to this division and shall be recorded as a restriction on any parcels on which the density bonus units will be constructed.

(Ord. No. 2209, § 1, 6-18-12)

#### **Sec. 29.10.430. Requirements to maintain the affordable units.**

- (a) All affordable units shall be occupied by the household type specified in the written housing agreement required under this division. The applicant's obligation to maintain these units as affordable housing shall be evidenced by the housing agreement which shall be recorded as a deed restriction running with the land.
- (b) The Town may establish fees associated with the setting up and monitoring of affordable units.
- (c) The owner shall submit an annual report to the Town, on a form provided by the Town. The report shall include for each affordable unit the rent, income, and family size of the household occupying the unit.
- (d) The owner shall provide to the Town any additional information required by the Town to insure the long-term affordability of the affordable units by eligible households.

(Ord. No. 2209, § 1, 6-18-12)

#### **Sec. 29.10.435. Administrative fee.**

An administrative fee shall be charged to the applicant for the review of all materials submitted in accordance with this division and for future monitoring of the affordability of the project. The fee amount shall be established and will be included in the Town's Master Fee Schedule. Fees will be charged for staff and consultant time associated with the development review process, project marketing and leasing, and compliance with the affordability requirements of the project.

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(Ord. No. 2209, § 1, 6-18-12)

**Sec. 29.10.440. Appeals.**

Any person aggrieved by the denial, conditioning, suspension, or revocation of a density bonus housing development in compliance with the provisions of this division may appeal such action or determination to the Council in compliance with Chapter 29, Article II (Administration and Enforcement) of the Town Code.

(Ord. No. 2209, § 1, 6-18-12)

**Secs. 29.10.445—29.10.500. Reserved.**

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