

CITY OF OJAI
ORDINANCE NO. 888

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OJAI, CALIFORNIA, AMENDING OJAI MUNICIPAL CODE SECTION 10-2.907 “DENSITY BONUS” TO BE CONSISTENT WITH CALIFORNIA LAW GOVERNING STANDARDS AND REQUIREMENTS FOR PROVIDING AND INCENTIVIZING AFFORDABLE HOUSING WITH DENSITY BONUSES AND OTHER STATE-MANDATED CONCESSIONS AS PART OF EITHER A RESIDENTIAL HOUSING PROJECT OR A COMMERCIAL MIXED-USE PROJECT AND FINDING THAT THE ADOPTION OF THESE AMENDMENTS IS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

WHEREAS, California Government Code section 65915 requires cities to adopt an ordinance incentivizing the production of specified types of affordable housing by providing density bonuses, incentives, concessions, and waivers to certain types of residential and commercial mixed use development projects; and

WHEREAS, the Ojai City Council intends to amend Ojai Municipal Code section 10-2.907 “Density Bonus,” previously adopted under Government Code section 65915, to be consistent with recent amendments to this section so that the affordability thresholds, density bonus amounts, and requisite concessions, incentives, and waivers align with State law; and

WHEREAS, the Ojai City Council has considered all of the evidence before it regarding this text amendment including, but not limited to, the Planning Commission’s recommendation, staff reports and attachments, and public testimony at its meeting and the Planning Commission’s August 15, 2018 meeting; and,

WHEREAS, the proposed Ojai Municipal Code Amendment is consistent with Government Code section 65915 and is consistent with the Housing Element of the Ojai General Plan, which encourages the development of affordable housing, is adopted in the public interest, and is otherwise consistent with federal and state law; and,

WHEREAS, on May 22, 2018, the City Council considered a term sheet for the proposed ordinance and voted to move it forward for detailed evaluation by the Planning Commission and City Council in noticed public hearings; and

WHEREAS, on August 15, 2018, the Planning Commission held noticed public hearings regarding the zoning code amendment and environmental determination and, notice of said hearing, including the proposed CEQA exemption determination was published in the *Ojai Valley News* at least 10 days prior to the public hearing on August 15, 2018; and

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WHEREAS, on August 15, 2018, the Planning Commission received and considered all public testimony, documentary evidence and staff recommendations submitted at the public hearings, and recommended adoption of both the text amendment and the environmental determination by the City Council, and

WHEREAS, on September 25, 2018, the City Council held a noticed public hearing regarding the zoning code amendment and environmental determination and, notice of said hearing, including the proposed CEQA exemption determination was published in the *Ojai Valley News* at least 10 days prior to the hearing; and

WHEREAS, on September 25, 2018, the City Council received and considered all public testimony, documentary evidence and staff recommendations submitted at the public hearings, and introduced this ordinance, and

WHEREAS, the City Council finds the proposed text amendment is consistent with and necessary to carry out the policies of the City's adopted General Plan because the proposed amendments modifying the requirements for qualifying affordable housing residential and commercial mixed use projects eligible for density bonuses, incentives, concessions, and waivers will not permit land uses that are inconsistent with the approved land uses in the Land Use Element and will affirmatively further the development of additional affordable housing units in the City as required by Government Code section 65915, and consistent with the City's stated goal in the Housing Element of promoting the construction of affordable housing units and

WHEREAS, the proposed text amendment will not adversely affect the public health, safety, or welfare as the amendments do not authorize any land uses with adverse impacts on the public health, safety, or welfare, and the amendments maintain existing protections in the Ojai Municipal Code against the maintenance of any land use that constitutes a public nuisance.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OJAI DOES ORDAIN AS FOLLOWS:

SECTION 1. Recitals. The above set forth recitals and findings are true and correct and incorporated herein by reference, as if set forth herein in full.

SECTION 2. Text Amendment. Ojai Municipal Code section 10-2.907 is hereby amended to read as follows, with additions marked by underlined text and deletions marked by ~~struck through~~ text:

Section 10-2.907. Density Bonus.

- (a) Basic provisions. Residential or mixed-use development projects proposing a development of five or more multi-family residential dwelling units located in the R-2, R-3, R-S, VMU and SPL Overlay District zones shall be eligible for a density bonus in accordance with this section. The City shall grant a density bonus to a Developer of a Residential or Mixed-use Project who agrees to provide at least one of the following: (i) ten (10%) percent of the total units of a Residential Project as Affordable Units for Lower Income Households; (ii) five

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(5%) percent of the total units of a Residential or Mixed-use Project as Affordable Units for Very Low Income Households; (iii) one hundred (100%) percent of the total dwelling units of a Residential or Mixed-use Project as Affordable Units for Qualifying Residents; (iv) ten (10%) percent of the total units of a common interest Residential Project, as defined in Section 1351 of the California Civil Code, in which the Affordable Units are offered for sale to Moderate Income Households; (v) ten (10%) of the total units of a Residential or Mixed-Use Project for transitional foster youth, as defined in Section 66025.9 of the Education Code, disabled veterans, as defined in Section 18541 of the Government Code, or homeless persons, as defined in the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. Section 11301 et seq.), in which the Affordable Units are subject to a recorded affordability restriction of 55 years for Very Low Income Households; or (vi) one (1) acre of donated land meeting the requirements, criteria and limitations of Government Code Section 65915(hg). For purposes of this section, a Mixed-Use Project is a residential project meeting the definition of mixed-use in Section 10-2.3602(m) and consists of at least five multi-family dwelling units together with non-residential, commercial uses that are compatible with the residential units and the existing development in the area where the proposed Mixed-use Project will be located.

- (b) Density bonus calculation. The density bonus for which a Developer is entitled shall be determined according to the percentage that Affordable Units constitute of the total Residential or Mixed-use Project with adjustments according to Target Household as set forth in Table 4-6. When calculating the number of permitted density bonus units: (i) any fraction of units ~~(including fractions resulting from construction of less than five (5) dwellings)~~ shall be rounded up to the next whole integer; and (ii) the total number of units in the Residential or Mixed-use Project on which the required percentage of Affordable Units is determined shall not include the density bonus units; ~~and (iii) the inclusionary incentives prescribed in Section 10-2.903 shall not be additive, rather, they shall be in place of the basic density bonus calculation.~~ Except at the sole discretion of the Developer, density bonus units shall be Non-Restricted Units.
- (c) ~~Additional incentive(s)~~ Incentives or Concessions. Upon the written request of a Developer, the City shall provide ~~Additional Incentive(s)~~ Incentives or Concessions in accordance with Table 4-6 and Government Code section 65915.5 unless the City makes a written finding, based upon substantial evidence, that the Incentives or Concessions ~~Additional Incentive(s)~~ is/are not: (i) would not result identifiable and actual cost reductions to provide for affordable housing costs, as defined in Section 500052.5 of the Health and Safety Code, or for rents for the targeted units to be set at the applicable affordability levels ~~required to provide Affordable Units;~~ or (ii) would have an specific adverse impact upon public health and safety, the physical environment or historical resources that cannot otherwise be mitigated without rendering the Residential or Mixed-use Project unaffordable to low- and moderate-income households infeasible; or (iii) would be contrary to state or federal law. ~~The need for granting of incentives or concessions will vary for different Residential or mixed-use Projects and shall be determined on a case-by-case basis as provided in Section 10-2.907(m) by the project's review authority.~~ The ~~Additional Incentive(s)~~ Incentives or Concessions may include, but are not limited to, any of the following: (i) a reduction of site development

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standards including, but not limited to, lot sizes and/or dimensions, setbacks, the ratio of vehicular parking spaces, open space, lot coverage, building height, structural separation, street widths and architectural design; (ii) a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the California Health and Safety Code; (iii) allowing the Residential Project to include non-residential land uses and/or allowing the Residential Project within a one of the following non-residential zones, C-1 or B-P, if the mix of land uses are deemed compatible with and reduce the costs of the Residential Project ~~and necessary to achieve economic feasibility~~; (iv) other regulatory incentives or concessions proposed by the Developer or the City which result in identifiable cost reductions or avoidance; (v) waived, reduced, or deferred planning, plan check, construction permit, and/or development impact fees (e.g., capital facilities, park, or traffic fees); and/or (vi) direct financial assistance in the form of a loan or a grant to subsidize or provide low interest financing for on or off site improvements, land or construction costs. In the case of waiver or modification of zoning standards, the written request submitted by a Developer shall be accompanied with supporting evidence showing that: (i) such waivers or modifications would result in identifiable and actual costs and are necessary to provide for affordable housing costs, as defined in Section 500052.5 of the Health and Safety Code, or for rents for the targeted units to be set at the applicable affordability levels to make the Residential Project economically feasible; and (ii) application of the development standard will have the effect of precluding construction of the Residential or mixed-use Project with the density bonus authorized under this section.

- (d) Off-street parking requirements. Upon the request of a Developer, off-street parking requirements for a Residential or mixed-use Project shall be reduced to the following maximums: (i) for dwelling units with zero (0) to one (1) bedroom(s) — one (1) onsite parking space for each such dwelling; (ii) for dwelling units with two (2) to three (3) bedrooms — two (2) onsite parking spaces for each such dwelling; and (iii) for dwelling units with four (4) or more bedrooms — two and one-half (2½) parking spaces for each such dwelling. If the Residential or mixed-use Project is located within one-half mile of a major transit stop, as defined in Section 21155(b) of the Public Resources Code and includes the maximum percentage of low- or very low-income units in Table 4-6, and there is unobstructed access from the development to the transit stop, the maximum shall not exceed 0.5 parking spaces, inclusive of handicapped and guest parking, per dwelling unit. If the total number of parking spaces required for a Residential or mixed-use Project is other than a whole number, the number shall be rounded up to the next whole number. For purposes of this subdivision, a Residential or mixed-use Project may provide onsite parking through tandem parking or uncovered parking, but not through on-street parking. Furthermore, the reduced parking requirement: (i) shall only apply to Residential or mixed-use Projects which receive a density bonus under this section; (ii) must be specifically requested by a Developer; and (iii) is in addition to, and not in lieu of, the granting of Incentives and Concessions ~~Additional Incentives~~ as provided in Section 10-2.907(c).

Table 4-6

Density Bonus Provisions

Target Households										Density Bonus Factor
Very Low Income		Lower Income		Moderate Income		Qualifying Resident		Foster Youth, Disabled Veterans, & Homeless Persons		
A	B	A	B	A	B	A	B	A	B	
				10%— 19%	1					5%— 14%
				20%— 24% 25%	2					15%— 19%
5%	1	10%	1	25%	2	100%	0	10%	1	20%
				26%	2					21%
		11%	1							21.5%
				27%	2					22%
6%	1									22.5%
		12%	1	28%	2					23%
				29%	2					24%
		13%	1							24.5%
7%	1			30%	3					25%
		14%	1	31%	3					26%
				32%	3					27%
8%	1	15%	1							27.5%
				33%	3					28%
				34%	3					29%
9%	1			35%	3					30%
		17%	1							30.5%
				36%	3					31%
		18%	1	37%	3					32%
10%	2									32.5%
				38%	3					33%
		19%	1							33.5%
				39%	3					34%

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11%	2	20%	2	40%	3				35%
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Column A states the Percentage of affordable units at the applicable income level as a total of the entire project, exclusive of the density bonus units.

Column B states the Number of Incentives and Concessions ~~Additional Incentives~~, as permitted by subsection (c) for the project, depending on the applicable income level and percentage of affordable units.

Notes:

1. The actual number of density bonus units for a specific Residential Project is determined according to the following formula:
Density Bonus Units = Density Bonus Factor x Maximum Allowed Density (According to Underlying Zoning), rounded up to the next larger integer.
2. Qualifying Resident” means senior citizens or other persons eligible to reside in Senior Citizen Housing as provided in California 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 Section 798.76 or 799.5 of the Civil Code.
3. The units comprising the ten percent shall be affordable to the same affordability level as very low income units and shall be subject to a recorded affordability restriction of 55 years.
34. The density bonus provisions of this Table, as it pertains to Moderate Income, applies only to common interest Residential Projects.

(e) Child care facilities. Unless the city council finds, based upon substantial evidence, that the community has adequate child care facilities, the City shall grant the following special incentives when a child care facility is proposed as part of a Residential or mixed-use Project for which a density bonus is granted under the provisions of this section, and such facility will be located on the premises of, as part of, or adjacent to, the Residential or mixed-use Project: (i) an additional density bonus that is an amount of square feet of residential space that is equal to or greater than the amount of square feet in the child care facility; or (ii) an ~~Additional~~ Incentive or concession that contributes significantly to the economic feasibility of the construction of the child care facility. In exchange for these special incentives, the following conditions shall be imposed upon the Residential or mixed-use Project: (i) the child care facility shall remain in operation for a period of time that is as long as or longer than the Retention Period for the density bonus units; and (ii) enrollment at the child care facility shall be allocated among the Target Households in proportion to occupancy and reservation of Affordable Units within the Residential or mixed-use Project.

(f) Condominium conversions. Where a Residential Project consists of converting apartments to condominiums, and the Developer agrees to provide at least thirty-three (33%) percent of the total condominiums as Affordable Units for Lower or Moderate Income Households, or fifteen (15%) percent of the total condominiums as Affordable Units for Lower Income Households, and agrees to pay for the reasonably necessary administrative costs incurred in processing the request, the City shall: (i) grant a density bonus of twenty-five (25%) percent over the number of existing apartments; or (ii) provide an Equivalent Financial Incentive. A Developer, at its discretion, may submit a preliminary proposal in advance of formal entitlement and subdivision applications. In such event, the City shall process the request as

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provided in Section 10-2.907(k) within ninety (90) days of receipt of a written proposal. Nothing in this section shall be construed to require the City to approve a proposal to convert apartments to condominiums, provided, further that: (i) the City may place such reasonable conditions on the granting of a density bonus or Equivalent Financial Incentive as it finds appropriate; and (ii) a Developer shall be not be eligible for more than one (1) Density Bonus or ~~Additional~~ Incentive or Concession under this section.

- (g) Target households. In determining the number of Affordable Units to be provided pursuant to Section 10-2.907(b), the Maximum Residential Density shall be multiplied by the density bonus percentages appearing in Table 4-6. The density bonus units shall not be included when determining the total number of Affordable Units in the Residential or mixed-use Project. When calculating the required number of Affordable Units, any resulting decimal fraction shall be rounded to the next larger integer.
- (h) Production schedule. Affordable Units to be provided pursuant to this section shall be constructed concurrently with Non-Restricted Units as part of the Residential or mixed-use Project unless both the City and the Developer agree within the Affordable Housing Agreement to an alternative schedule for development. Circumstances may arise in which the public interest would be served by allowing some or all of the Affordable Units associated with one Residential or mixed-use Project to be produced and operated at an alternative development site. Where the Developer and the City form such an agreement, the resulting linked developments shall be considered a single Residential or mixed-use Project for purposes of this Section. Under these circumstances, the Developer shall be subject to the same requirements of this Section for the Affordable Units to be provided on the alternative site.
- (i) Retention period. Affordable Units for which a density bonus is granted under the provisions of this section shall remain restricted and affordable to Target Households for the time periods set forth below (or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program).
- (1) Basic incentive. ~~Except as provided in Section 10-2.907(i)(2), a~~ All Affordable Units shall remain restricted and affordable to Target Households for a minimum period of ~~fifty-five (55)~~ thirty (30) years. Owner-occupied units, including Affordable Units within common interest subdivision reserved for Moderate Income Households, shall be: (i) initially occupied at an affordable Housing Cost and thereafter remain restricted for the duration of the Retention Period; and (ii) governed by the terms and conditions of an Affordable Housing Agreement which includes equity share provisions as stipulated in California Government Code Section 65915(c)(2).
- (2) ~~Inclusionary housing. Affordable Units shall remain restricted and affordable to Target Households for a period of forty-five (45) years for owner-occupied units and fifty-five (55) years for renter-occupied units in those circumstances where the density bonus: (i) is granted in connection with Residential Projects subject to the provisions of Section 10-2.903; and (ii) the Affordable Units are expressly required to satisfy the requirements of Section 10-2.903.~~

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- (j) Development standards. The Affordable Units resulting from density bonuses granted under this section: (i) may either be rental or for-sale dwellings; and (ii) shall be comparable in number of bedrooms, exterior appearance and overall quality of construction to Non-Restricted Units. The square footage of Affordable Units and interior features in Affordable Units ~~may not~~ is not required to be the same as or equivalent to those in Non-Restricted Units in the same Residential Project or residential portion of the mixed-use Project, so long as they are of good quality and are consistent with contemporary standards for new housing. Affordable Units shall be dispersed throughout the Residential Project, or residential portion of the mixed-use Project, or, subject to the approval of a precise plan of design as provided in Section 10-2.2007, may be clustered within the Residential Project when this furthers affordable housing opportunities.
- (k) Conceptual review. A Developer proposing a Residential or mixed-use Project pursuant to this section may submit its proposal for conceptual review by the City Council and/or Planning Commission prior to the submittal of any formal request for approval of a Residential or mixed-use Project. The purpose of the conceptual review is to identify issues, concerns and recommendations preparatory to making formal application. The conceptual review process, including form of application and processing fees, if any, shall be determined by the Director.
- (l) Conditions precedent. The granting of density bonuses under this section are expressly subject to and contingent upon: (i) obtaining all Entitlements applicable to the Residential or mixed-use Project; and (ii) satisfying the California Environmental Quality Act including, as appropriate, the preparation of necessary reviews and documentation in conjunction with Entitlement applications for each Residential or mixed-use Project. In addition, an Affordable Housing Agreement (consistent with the provisions of Section 10-2.704(g)(3)) shall be made a condition of zoning clearance and building permit issuance for all Residential or mixed-use Projects pursuant to this section. The Affordable Housing Agreement shall: (i) be prepared and submitted by the Developer of each Residential or mixed-use Project; (ii) be subject to review and approval by the City Council prior to execution; and (iii) be recorded as a restriction on the parcel or parcels on which the Affordable Units will be constructed.
- (m) Application process. An application pursuant to this section shall be processed concurrently with any other application(s) required for the Residential Project. The applicant shall be provided notice of the application's completeness within 30 days of its submission. Final approval or disapproval of an application (with right of appeal) shall be determined by the decision-making body having jurisdiction over the matter unless the Developer requests: (i) a Financial Equivalent Incentive in lieu of a Density Bonus and/or ~~Additional~~ Incentive or Concession; or (ii) a fee waiver or direct financial assistance is requested as part of an ~~Additional~~ Incentive or Concession. In either of these events, the decision-making body with permit jurisdiction shall make a recommendation to the City Council who shall have the authority to make the final decision on the application.

SECTION 3. Environmental Determination. The City Council determines that the following findings and conclusions reflect the independent judgment of the City Council. The City Council finds that the adoption of the foregoing amendment to the Ojai Municipal Code is exempt from the California Environmental Quality Act (CEQA) for the following reasons:

- a. The proposed text amendment is exempt from review under the California Environmental Quality Act under California Code of Regulations, Title 14, Section 15301 of the CEQA Guidelines and is also exempt from review because it does not meet the definition of a project under CEQA Guidelines sections 15061, subdivision (b)(3) and section 15378, subdivision (a) and subdivision (b)(5). The proposed changes to the density bonus ordinance as authorized and required by state law, have no potential for resulting in physical changes in the environment because it consists of changes in the standards governing issuance of permits for density bonus projects and does not directly or indirectly approve any applications for particular projects. Any particular proposed project will be required to undergo a City development permit application and appropriate review under CEQA.


SECTION 4. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have adopted this Ordinance, and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, phrases or portions might be declared invalid or unconstitutional.

SECTION 5. Certification. The City Clerk shall cause this Ordinance to be published once, within fifteen (15) calendar days after its passage, in the *Ojai Valley News*, a newspaper of general circulation, printed, published and circulated in the City, and shall cause a copy of this Ordinance and its certification, together with proof of publication, to be entered in the Book of Ordinances of the City.

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SECTION 6. Effective Date. This Ordinance shall take effect 30 days after its passage and adoption pursuant to California Government Code Section 36937, shall supersede any conflicting provision of any City of Ojai ordinance, and shall continue in effect until terminated by further action of the City Council in accord with applicable law.


CITY OF OJAI, CALIFORNIA

By 
John F. Johnston, Mayor
10-12-18
Date signed

ATTEST:


Gail Davis, Deputy City Clerk


APPROVED AS TO FORM:


Matthew T. Summers, City Attorney

STATE OF CALIFORNIA)
COUNTY OF VENTURA)
CITY OF OJAI)

I, Gail Davis, Deputy City Clerk of the City of Ojai do hereby certify that the foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Ojai held on September 25, 2018 and adopted at a regular meeting held on October 9, 2018 by the following vote:

AYES: Blatz, Francina, Haney, Johnston, Weirick
NOES: None
ABSTAIN: None
ABSENT: None


Gail Davis
Deputy City Clerk for the City of Ojai