

## DENSITY BONUS ORDINANCE UPDATE

### RESOLUTION NO. PC 03-24

#### **A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ORANGE RECOMMENDING CITY COUNCIL APPROVAL OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ORANGE AMENDING CHAPTER 17.15 OF THE ORANGE MUNICIPAL CODE RELATING TO DENSITY BONUS LAW**

#### **APPLICANT: CITY OF ORANGE**

**WHEREAS**, California Government Code Section 65915, et. seq. establishes standards for the granting of a density bonus as an incentive to encourage the development of housing affordable to low- and very low-income households in California; and

**WHEREAS**, the provisions of State density bonus law have continued to evolve since the adoption of the density bonus provisions contained in Chapter 17.15 of the Orange Municipal Code were adopted in 2008 creating inconsistencies between State law and the City Code;

**WHEREAS**, Housing Policy Action 2B of the City of Orange Housing Element identifies an update to the density bonus provisions of the Orange Municipal Code as an implementation action of the Element; and

**WHEREAS**, the Planning Commission conducted on duly advertised public hearing on March 4, 2024, at which time interested persons had an opportunity to testify either in support of, or opposition to, the proposal and for the purpose of considering the Density Bonus Ordinance.

**NOW, THEREFORE, BE IT RESOLVED** that the Planning Commission recommends that the City Council approve the Density Bonus Ordinance shown as Attachment 1, attached hereto, based on the following finding:

#### **SECTION 1- FINDINGS**

The proposed Ordinance updates the density bonus provisions contained in Chapter 17.15 of the OMC to be consistent with California Government Code Section 65915, et. seq. and implements an implementation activity included in Housing Policy Action 2B of the City of Orange Housing Element.

## **SECTION 2-ENVIRONMENTAL REVIEW**

The proposed project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15378 of the state CEQA Guidelines (Common Sense Exemption) because it will not have a direct or reasonably foreseeable indirect physical change on the environment and is not a "project." For this reason, no further CEQA documentation is required.

**ADOPTED** this 4<sup>th</sup> day of March 2024.



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David Vazquez, Planning Commission Chair

I hereby certify that the foregoing Resolution was adopted by the Planning Commission of the City of Orange at a regular meeting thereof held on the 4<sup>th</sup> day of March 2024, by the following vote:

AYES: Martinez, Simpson, Vejar, Maldonado, Tucker, McCormack, Vazquez

NOES: None

ABSENT: None



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Anna Pehoushek

Assistant Community Development Director

**ATTACHMENT 1**  
**PLANNING COMMISSION RESOLUTION NO. PC 03-24**  
**DRAFT DENSITY BONUS ORDINANCE**

## ORDINANCE NO. XX-24

### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ORANGE AMENDING CHAPTER 17.08 AND 17.15 OF THE ORANGE MUNICIPAL CODE RELATING TO DENSITY BONUS LAW

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

#### SECTION I:

This Ordinance is not a project under the California Environmental Quality Act (CEQA) per State CEQA Guidelines Section 15378, because it involves administrative activities of the City that will not result in direct or indirect physical changes in the environment.

#### SECTION II:

The Table contained at Section 17.08.020 shall be revised as follows:

Type of Procedure, Permit or Hearing	CDD	DRC	ZA	PC	CC
Administrative Design Review	X(1)				
Administrative Adjustment Permit			X		
Alcohol Production Permit			X		
Conditional Use Permit	A	A(1)	X(1)	X(1)	X(1)
Density Bonus Application	X				
Design Review		A/X(1)		X(1)	
Environmental Documentation	A			X(1)	X(1)
General Plan Amendment	A			A	X
Neighborhood Preservation Overlay Applications		A/X(1)	X(1)		
Old Towne Demolition Permit		A		X(1)	X
Reasonable Accommodation	X(1)				
Site Plan Review—Major	A	A		X	
Site Plan Review—Minor	X				
Sober Living Permit	X				
Temporary Use (Non-Recurring) Permit	A	X(1)	X(1)		
Temporary Use (Recurring) Permit	X				
Tentative Parcel Map	X(1)			X(1)	X(1)
Tentative Tract Map	A			A	X
Variance	A	A(1)	X(1)	X	
Zone Change	A			A	X
Zoning Ordinance Amendment	A			A	X

### **SECTION III:**

Section 17.08.020(E)(1) is hereby amended to add subsection (n) as follows:

“n. Decide upon Density Bonus applications and review, approve and execute Density Bonus Housing Agreements, with concurrence of the City Attorney.”

### **SECTION IV:**

Chapter 17.15 of the Orange Municipal Code (Zoning –Density Bonus) is hereby repealed in its entirety.

### **SECTION V:**

Chapter 17.15 of the Orange Municipal Code (Zoning—Density Bonus) is hereby added to read as follows:

## **CHAPTER 17.15 DENSITY BONUS**

- 17.15.010      Density Bonus**
- 17.15.020      Processing and Approval**
- 17.15.030      Density Bonus Housing Agreement**
- 17.15.040      Location, Design and Quality of Affordable Units**
- 17.15.050      Issuance of Building Permit**
- 17.15.06      Additional Regulations**

### **17.15. 010      Density Bonus**

The City hereby incorporates by reference the State's density bonus law, as contained in Government Code Section 65915, et. seq., as may be amended from time to time. In enacting this Chapter, it is the intent of the City to facilitate the development of affordable housing and to implement the goals, objectives, and policies of the Housing Element of the City's General Plan.

### **17.15.020      Processing and Approval.**

An application for density bonus under this Chapter shall follow the review process for Major Site Plan Review as set forth in Section 17.10.060, including form and payment of required fees. The application shall be processed concurrently with any other discretionary or ministerial entitlement applications. Determinations shall be made by the Director of Community Development. Appeals shall be as set forth in this Title.

### **17.15.030      Density Bonus Housing Agreement**

A. The applicant requesting a density bonus under this Chapter shall agree to construct, operate and maintain the project in accordance with a density bonus housing agreement entered into with the City.

B. The terms of the density bonus housing agreement shall be reviewed and revised as appropriate by the Director of Community Development, who shall execute on behalf of the City, and the City Attorney, who shall review as to form.

C. The proposed density bonus housing agreement shall be based on the city's standard form agreement, which, at minimum, shall include the address(es), legal description, an appropriate term of affordability, a project description, including, but not limited to, the total number of market-rate and affordable units, the concessions or incentives provided, waivers or reductions provided, the type and description of the affordable unit(s) provided (number of bedrooms/bath, unit size, floor area, etc.) and other standard provisions, including, but not limited to, income verification requirements, the dispersal requirement under this Chapter, indemnification language, monitoring and/or reporting requirements and remedies for breach..

D. Once a density bonus housing agreement is determined acceptable by the Director of Community Development and executed by the parties, the density bonus housing agreement shall be recorded on the parcel or parcels designated for construction. The approval and recordation shall take place prior to final map approval, or, where a map is not being processed, prior to the issuance of building permits for the project. The density bonus housing agreement shall be binding upon all future owners and successors in interest

### **17.15.040      Location, Design and Quality of Affordable Units Design**

Affordable units shall be dispersed throughout the project. The bedroom mix of the affordable units shall be equivalent to the bedroom mix of the market-rate units of the project, except that the applicant may include a higher proportion of affordable units with more bedrooms. The exterior and interior design and appearance of the affordable units shall be comparable with the market rate units.

### **17.15.050      Issuance of Building Permits**

The City may not issue building permits for more than 50 percent of the market rate units until it has issued building permits for all of the affordable units, and the City may not approve any final inspections or certificates of occupancy for more than 50 percent of the market rate units until it has issued final inspections or certificates of occupancy for all of the affordable units.

### **17.15.060      Additional Regulations**

The Director may propose additional standards and procedures to implement the provision of this Chapter, consistent with the requirements of State law. The Director's regulations shall be

submitted to the City Council for approval by resolution and may be changed from time to time to reflect changes in State law without further action of the City Council.

**SECTION VI:**

If any section, subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each section, subdivision, paragraph, sentence, clause and phrase thereof, irrespective of the fact that any one (or more) section, subdivision, paragraph, sentence, clause or phrase had been declared invalid or unconstitutional.

**SECTION VII:**

The City Clerk is hereby directed to certify the adoption of this Ordinance and cause the same to be published as required by law. This Ordinance shall take effect thirty (30) days from and after the date of its final passage.

**ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

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Daniel R. Slater, Mayor, City of Orange

ATTEST:

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Pamela Coleman, City Clerk, City of Orange

STATE OF CALIFORNIA )  
COUNTY OF ORANGE )  
CITY OF ORANGE )

I, PAMELA COLEMAN, City Clerk of the City of Orange, California, do hereby certify that the foregoing Ordinance was introduced at the regular meeting of the City Council held on the \_\_\_ day of \_\_\_\_\_, 2023, and thereafter at the regular meeting of said City Council duly held on the \_\_\_ day of \_\_\_\_\_, 2023 was duly passed and adopted by the following vote, to wit:

AYES:                    COUNCILMEMBERS:

NOES: COUNCILMEMBERS:  
ABSENT: COUNCILMEMBERS:  
ABSTAIN: COUNCILMEMBERS:

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Pamela Coleman, City Clerk, City of Orange