

ORDINANCE NO. 3250

ORDINANCE OF THE CITY OF CHULA VISTA AMENDING
TITLE 19 OF THE CHULA VISTA MUNICIPAL CODE BY
THE ADDITION OF CHAPTER 19.90 TO ESTABLISH
REQUIREMENTS FOR THE RESERVATION AND
AFFORDABILITY OF HOUSING UNITS FOR VERY LOW,
LOWER AND MODERATE INCOME HOUSEHOLDS AND
SENIOR CITIZENS IN RESIDENTIAL PROJECTS UNDER A
CITY WIDE AFFORDABLE HOUSING INCENTIVE
PROGRAM

WHEREAS, California Government Code Section 65915 permits a Developer of a residential project of five (5) or more units on a specific site to request that the project be granted a density increase over the otherwise maximum residential density, unless a lesser percentage is elected by the Developer, and provide at least one additional regulatory concession or incentive (unless the City finds the additional incentive unnecessary) or other incentives of equal financial value based upon land cost per dwelling for the purpose of providing affordable housing for Very Low Income or Lower Income households or for qualifying (Senior) residents; and

WHEREAS, California Government Code Section 65915.5 permits a Developer proposing to convert apartments to condominiums, to request that the project be granted a density/Floor Area Ratio (FAR) bonus or other incentives of equal financial value based upon land cost per dwelling, in exchange for reserving a specific percentage of the converted condominium units for Lower or Moderate Income households; and

WHEREAS, California Government Code Sections 65915 and 65915.5 require that local jurisdictions adopt an ordinance, which establishes the procedure for implementing the density/FAR bonus/incentive program; and

WHEREAS, it is a policy of the Housing Element of the City's General Plan to prepare an ordinance which implements State Government Code Sections 65915 and 65915.5; and

WHEREAS, on November 14, 2012, a duly noticed public hearing on the Affordable Housing Incentive Ordinance was held before the City Planning Commission, which forwarded its recommendations to the City Council; and

WHEREAS, the City Council has received and considered the agenda statement accompanying the Affordable Housing Incentive Ordinance, the Planning Commission recommendations as well as public testimony.

NOW, THEREFORE, the City Council of the City of Chula Vista does hereby find, determine and approve the proposed amendments to the City of Chula Vista Municipal Code to implement the Affordable Housing Incentive Ordinance and does ordain as follows:

SECTION I: Title 19 of the Chula Vista Municipal Code is amended by the addition of Chapter 19.90 to read as follows:

Chapter 19.90
AFFORDABLE HOUSING INCENTIVES

Sections:

19.90.010	Purpose and Intent.
19.90.020	Definitions.
19.90.030	General Applicability.
19.90.040	Standard Incentives for New Residential Construction.
19.90.050	Alternative or Additional Incentives and Concessions for Housing Developments.
19.90.060	Condominium Conversions.
19.90.070	Housing with Child Day Care Centers.
19.90.080	Affordable and Senior Housing Standards.
19.90.090	Affordability Tenure.
19.90.100	Application Requirements and Review.
19.90.110	Affordable Housing Agreement.
19.90.120	Agreement Processing and Administrative Fee.
19.90.130	Noticing and Procedural Requirements for Expiring Rental Restrictions.
19.90.140	First Right of Refusal to Purchase Rental Housing.
19.90.150	Savings Clause.

19.90.010 Purpose and Intent.

The purpose of this Chapter is to provide incentives for the production of affordable housing for Very Low Income, Lower Income or senior households in accordance with Sections 65915 and 65917 of the California Government Code and any subsequent amendments or revisions thereto.

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 for Very Low Income, Lower Income, and senior households 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 Definitions.

Terms used in this Chapter shall have their meaning defined in this Section:

- A. "Affordable Housing" as currently defined in section 50053 (b) and 50052.5 (b) of the Health and Safety Code and any subsequent amendments or revisions.

- B. “Affordable Housing Agreement” means a legally binding agreement between the Developer and the City to ensure that the requirements of this Chapter are satisfied. The agreement shall establish at a minimum, the number of target units, their size, location, terms and conditions of affordability and production schedule as further described in Section 19.90.110 of this Chapter.
- C. “Allowable housing expense” as currently defined in 25 California Code of Regulations Sections 6920 and 6918 and any subsequent amendments or revisions.
- D. “Child day care center” shall have the same meaning as a day nursery as defined in Section 19.04.064 of this title.
- E. “Common interest development” as currently defined in section 1351 of the Civil Code and any subsequent amendments or revisions.
- F. “Conversion” means the change of occupancy of a dwelling unit from owner-occupied to rental or vice versa.
- G. “Density/FAR bonus” means an increase over the otherwise maximum allowable residential density or permitted floor area ratio (FAR) on the site under the applicable zoning ordinance and Land Use Element of the General Plan as of the date of the application.
- H. “Density/FAR bonus units” means those residential units granted pursuant to the provisions of this Chapter which exceed the otherwise Maximum Residential Density or permitted Floor Area Ratio (FAR) for the development site.
- I. “Developer” means any individual, firm, limited liability company, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever who applies to the City for the applicable permits to undertake any construction, demolition, or renovation project within the City of Chula Vista.
- J. “Development standard” means site or construction conditions/requirements that apply to a housing development pursuant to any ordinance, General Plan Element, Master or Specific Plan, or other City requirement, law, policy, resolution or regulation.
- K. “FAR” means the Floor to Area Ratio, which is a calculation of the total building square footage divided by the lot square footage. FAR calculation methods are described more fully in CVMC, Section 19.04.097.
- L. “Housing development” means one or more groups of projects for residential units that are the subject of one development application, consisting of the following:
 - 1. The construction of five or more residential units;

2. A subdivision or common interest development (commonly known as condominiums) consisting of five or more residential units or unimproved lots; or
 3. A project to either substantially rehabilitate and convert an existing commercial building to residential use, or substantially rehabilitate an existing two-family or multiple-family dwelling structure(s), where the result of rehabilitation would be a net increase in available residential units.
- M. “In-lieu incentive” means incentives offered by the City, which are of equivalent financial value based upon the land cost per dwelling unit(s), that are offered in-lieu of the density/FAR bonus.
- N. “Incentives or concessions” means such regulatory incentives and concessions as stipulated in Government Code Section 65915(k), to include, but not be limited to the reduction of site development standards or zone code requirements, approval of mixed use zoning in conjunction with the housing project, or any other regulatory incentive which would result in identifiable cost reductions to enable the provision of housing for the designated income group or Qualifying (Senior) Residents.
- O. “Low Income household” as currently defined in section 50079.5 of the Health and Safety Code and any subsequent amendments or revisions.
- P. “Maximum residential density” means the maximum number of residential units permitted on the project site as defined in the zoning ordinance, or the applicable Specific Plan or Sectional Planning Area (SPA) Plan.
- Q. “Moderate Income household” as currently defined in section 50093 of the Health and Safety Code and any subsequent amendments or revisions.
- R. “Non-restricted unit” means all units within the housing development that are not target units.
- S. “Qualifying resident” as currently defined by Section 51.2 of the Civil Code and any subsequent amendments or revisions.
- T. “Senior citizen housing” as currently defined by Sections 51.3 and 51.12 of the Civil Code and any subsequent amendments or revisions.
- U. “Target unit” means a residential unit within a housing development that will be offered for rent or sale exclusively to and which shall be affordable to the designated income group or qualified (senior) resident, as required by this Chapter.
- V. “Total units” means the number of dwelling units in a housing development, excluding the dwelling units added by the density/FAR bonus.

W. "Very Low Income household" as currently defined in section 50105 of the Health and Safety Code and any subsequent amendments or revisions.

19.90.030 General Applicability.

The provisions of this Chapter shall apply to a housing development of at least five units and where the developer seeks and agrees to construct housing units to be restricted for occupancy by very low, lower or moderate income households or senior citizens as set forth in Section 19.90.040.

19.90.040 Standard Incentives for New Residential Construction.

The decision-making body shall grant one density/FAR bonus, as specified in subsection B of this Section, and/or incentives or concessions, as set forth in Section 19.90.050 of this Chapter, when a developer of a housing development of at least five units seeks and agrees to construct at least any one of the following. The density/FAR bonus units shall not be included when determining the total number of target units in the housing development. Affordable housing units provided under the City's General Plan Housing Element Balanced Communities Affordable Housing Policy may be counted toward the requirements of this chapter.

1. Low Income Households. A minimum of ten percent (10%) of the total units of the housing development as restricted and affordable to Low Income households;
 2. Very Low Income Households. A minimum of five percent (5%) of the total units of the housing development as restricted and affordable to very Low Income households;
 3. Senior Citizens. A senior citizen housing development or mobile home park that limits residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the California Civil Code. There is no requirement for the affordability of the units for very low, low or moderate income households; or
 4. Moderate Income Households. A minimum of ten percent (10%) of the total units in a common interest development restricted and affordable to Moderate Income households, provided that all units in the development are offered to the public for purchase.
- L. Density/FAR Bonus. When a developer seeks and agrees to construct a housing development meeting the criteria specified in subsection A of this Section, the decision-making body shall grant a density/FAR bonus subject to the following:
1. The amount of density/FAR bonus to which a housing development is entitled shall vary. The density/FAR bonus may be increased according to the percentage of affordable housing units provided above the minimum percentages established in subsection A of this Section, but shall not exceed thirty-five percent (35%), except in accordance with subsection D of this Section:

- a. Low Income Households. For housing developments meeting the criteria of subsection (A)(1) of this Section, the density/FAR bonus shall be calculated as follows:

Table A
Density/FAR Bonus for Housing Developments with Units
Affordable to Low Income Households

Percentage (%) of Low Income Units <i>(Minimum 10% required)</i>	Percentage (%) of Density/FAR Bonus to be Granted <i>(Additional 1.5% bonus for each 1% increase above the 10% minimum)</i>
10	20
11	21.5
12	23
13	24.5
14	26
15	27.5
16	29
17	30.5
18	32
19	33.5
20	35

- b. Very Low Income Households. For housing developments meeting the criteria of subsection (A)(2) of this Section, the density/FAR bonus shall be calculated as follows:

Table B
Density/FAR Bonus for Housing Developments with Units
Affordable to Very Low Income Households

Percentage (%) of Very Low Income Units <i>(Minimum 5% required)</i>	Percentage (%) of Density/FAR Bonus to be Granted <i>(Additional 2.5% bonus for each 1% increase above the 5% minimum)</i>
5	20
6	22.5
7	25
8	27.5
9	30

Table B
Density/FAR Bonus for Housing Developments with Units
Affordable to Very Low Income Households

Percentage (%) of Very Low Income Units <i>(Minimum 5% required)</i>	Percentage (%) of Density/FAR Bonus to be Granted <i>(Additional 2.5% bonus for each 1% increase above the 5% minimum)</i>
10	32.5
11	35

- c. Senior Citizens. For housing developments meeting the criteria of subsection (A)(3) of this Section, the density/FAR bonus shall be twenty percent (20%).
- d. Moderate Income Households in a Common Interest Development. For housing developments meeting the criteria of subsection (A)(4) of this Section, the density/FAR bonus shall be calculated as follows:

Table C
Density/FAR Bonus for Common Interest Developments with
Units Affordable to Moderate Income Households

Percentage (%) of Moderate Income Units <i>(Minimum 10% required)</i>	Percentage (%) of Density/FAR Bonus to be Granted <i>(Additional 1% bonus for each 1% increase above the 10% minimum)</i>
10	5
11	6
12	7
13	8
14	9
15	10
17	12
18	13
19	14
20	15
21	16
22	17
23	18
24	19
25	20
26	21

Table C
Density/FAR Bonus for Common Interest Developments with
Units Affordable to Moderate Income Households

Percentage (%) of Moderate Income Units <i>(Minimum 10% required)</i>	Percentage (%) of Density/FAR Bonus to be Granted <i>(Additional 1% bonus for each 1% increase above the 10% minimum)</i>
27	22
28	23
29	24
30	25
31	26
32	27
33	28
34	29
35	30
36	31
37	32
38	33
39	34
40	35

M. Density/FAR Bonus in Excess of 35%. In cases where a developer requests a density/FAR bonus in excess of that which is specified in this Section, the City Council may grant, at its discretion, the requested density/FAR bonus, subject to the following:

1. The project meets the requirements of this Chapter.
2. The requested density/FAR increase, if granted, is an additional density/FAR bonus and shall be considered an incentive, in accordance with Section 19.090.050 of this Chapter.
3. The City Council may require some portion of the additional density/FAR bonus units to be designated as target units, at its discretion.

N. Fractional Units. When calculating the density/FAR bonus, or the required number of target units, any calculations resulting in fractional units shall be rounded up to the next whole number.

O. Granting a Lower Density/FAR Bonus. A qualified developer for a density bonus and/or additional incentives and concessions pursuant to Section 19.076.040(A) of this Chapter may

request and accept a lesser density/FAR bonus, including no increase in density and shall still be entitled to those additional concessions or incentives as specified in Section 19.090.050. No reduction will be allowed in the number of target units required.

- P. Land Donation. When a developer for a tentative subdivision map, parcel map, or other housing development approval donates land to the City to provide a minimum of ten percent (10%) of the total units for a future housing development, as provided for in this subsection, the developer shall be entitled to a density/FAR bonus for the entire development, as follows:

Table D
Density/FAR Bonus for Land Donation

Percentage (%) of Very Low Income Units <i>(Minimum 10% required)</i>	Percentage (%) of Density/FAR Bonus to be Granted <i>(Additional 1% bonus for each 1% increase above the 10% minimum)</i>
10	15
11	16
12	17
13	18
14	19
15	20
16	21
17	22
18	23
19	24
20	25
21	26
22	27
23	28
24	29
25	30
26	31
27	32
28	33
29	34
30	35

1. Additional Density/FAR Bonus. The density/FAR bonus stated in Table D above shall be in addition to any increase mandated by subsection A of this Section. The maximum combined density/FAR bonus of the mandated and the additional increase shall not exceed thirty-five percent (35%). A developer shall be eligible for the density/FAR bonus described in this subsection F only if all of the following conditions are met:
 - a. Date of Donations/Transfer. The land is donated and transferred to the City no later than the date of approval of the final subdivision map, parcel map or housing development application.
 - b. Feasibility of Development. The developable acreage, development standards, zoning classification and General Plan land use designation of the land being donated are sufficient to permit construction of the units affordable to Very Low Income households in an amount not less than ten percent of the number of residential units of the proposed development.
 - c. Size of Land. The transferred land is at least one acre in size or of sufficient size to permit development of at least forty units, has the appropriate zoning classification and General Plan land use designation, and is or will be served by adequate public facilities and infrastructure.
 - d. Discretionary Approvals. No later than the date of approval of the final subdivision map, parcel map, or housing development, the transferred land shall have all of the permits and approvals, other than building permits, necessary for the development of the Very Low Income housing units on the transferred land, except that the City may subject the proposed development to subsequent design review to the extent authorized by subdivision (i) of Section 65583.2 of the California Government Code if the design is not reviewed by the City prior to the time of transfer.
 - e. Continued Affordability. The transferred land and the affordable units shall be subject to a deed restriction ensuring continued affordability of the units consistent with Section 19.90.090 of this Chapter, which shall be recorded on the property at the time of dedication.
 - f. Transfer to Housing Developer. The land is transferred to the City or to a housing developer approved by the City. The City may require the developer to identify and transfer the land to the developer.
 - g. Location of Land. The transferred land shall be within the boundary of the proposed development or, if the City agrees, within one-quarter mile of the boundary of the proposed development.
 - h. Financing. A proposed source of funding for the Very Low Income units shall be identified not later than the date of approval of the final subdivision map, parcel map, or residential development permit.

2. Condition of Development. Nothing in Section 19.90.040 (F) shall be construed to enlarge or diminish the authority of the City to require a developer to donate land as a condition of development.

19.90.050 Alternative or Additional Incentives and Concessions for Housing Developments.

- A. When a developer requests a density/FAR bonus and/or incentives or concessions pursuant to Section 19.90.040(A) of this Chapter, the decision-making body shall grant incentives or concessions, subject to the following:

1. Number of Incentives/Concessions.

- a. The developer shall receive the following number of incentives or concession based upon the minimum percentage of total units to be restricted as target units:

**Table E
Number of Incentives/Concessions**

Number of Incentives/ Concessions	Percentage (%) of Target Units <i>(Minimum required)</i>
1 Incentive/Concession	5% for Very Low Income households 10% for Lower Income households 10% for Moderate Income persons or families in a common interest development
2 Incentives/Concessions	10% for Very Low Income households 20% for Lower Income households 20% for Moderate Income persons or families in a common interest development
3 Incentives/Concessions	15% for Very Low Income households 30% for Lower Income households 30% for Moderate Income persons or families in a common interest development
4 or more Incentives/Concessions	At the discretion of the decision-making authority.

2. Incentives/Concessions. An incentive or concession may include any of the following:
 - a. Development, Design, and Zoning Code Requirements. A reduction or waiver of site development standards, modification of zoning code, or architectural design requirements that exceed the minimum building standards approved by the California Building Standards, including, but not limited to, a reduction in minimum lot size, setback requirements, and/or in the ratio of vehicular parking spaces that would otherwise be required. Any waiver or reduction from the applicable development standards that is necessary to implement the density and incentives/concessions to which the developer is entitled under this subsection (A) shall not serve to reduce or increase the number of incentives/concessions.
 - b. Mixed Use Development. Approval of mixed use residential development in areas not permitted if: 1) commercial, office, industrial or other land uses will reduce the cost of the housing development; and ii) the commercial, office, industrial or other land uses are compatible with the housing development and the existing or planned future development in the area where the project will be located.
 - c. Excess Density/FAR Bonus. A density/FAR Bonus in excess of more than that which is specified in Section 19.90.040(B)(1) and in compliance with Section 19.90.040(C).
 - d. Other. Other regulatory incentives or concessions proposed by the developer that result in identifiable, financially sufficient and actual cost reductions that contributes to the economic feasibility of the project.
 - e. Financial Incentives. The City Council may, but is not required to, provide direct financial incentives, including direct financial aid in the form of a loan or grant, the provision of publicly owned land, or the waiver of fees or dedication requirements.
3. Coastal Zone. Any housing development located within the coastal zone and processed pursuant to this Chapter shall be consistent with all certified Local Coastal Program provisions, with the exception of density as approved by this Chapter.

19.90.060 Condominium Conversions.

- A. Income Requirements. The decision-making body shall grant either: a density/FAR bonus or in-lieu incentives of equivalent financial value, as set forth in Section 19.90.050, to a developer proposing to convert apartments to condominiums in compliance with Chapter 15.56 of this Title, and who agrees to provide the following:
 1. Low or Moderate Income. A minimum of thirty-three percent (33%) of the total units of the proposed condominium project as restricted and affordable to Low or Moderate Income persons or families; or

2. Low Income A minimum of fifteen percent (15%) of the total units of the proposed condominium project as restricted and affordable to Low Income households.
- B. Density/FAR Bonus. For housing development projects meeting the criteria of subsection (A) of this Section, the density/FAR bonus shall be twenty-five percent (25%) over the number of apartments, to be provided within the existing structure or structures proposed for conversion.
- C. Calculating the Target Units. In determining the number of target units to be provided pursuant to the standards of this Section, the number of apartment units within the existing structure or structures proposed for conversion shall be multiplied by the percentage of units to be offered exclusively to the designated income group, as required by this Section 19.90.060(A). The density/FAR bonus units shall not be included when determining the total number of target units required to qualify for a density bonus.
- D. Fractional Units. When calculating the density/FAR bonus, or the required number of target units, any calculations resulting in fractional units shall be rounded up to the next whole number.
- E. Granting a Lower Density/FAR Bonus. In cases where a density/FAR increase of less than twenty-five percent (25%) is requested, no reduction will be allowed in the number of target units required.
- F. Other Incentives. For purposes of this Section, “other incentives of equivalent financial value” shall not be construed to require the City to provide monetary compensation, but may include the waiver or reduction of requirements that might otherwise apply to the proposed condominium conversion project at the sole discretion of the decision-making body.
- G. Ineligibility. A developer proposing to convert apartments to condominiums shall be ineligible for a density/FAR bonus or in-lieu incentives under this Section if the apartments proposed for conversion constitute a housing development for which a density/FAR bonus or in-lieu incentives were previously provided under this Chapter.
- H. Affordable Housing Agreement as a Condition of Development. An Affordable Housing Agreement for all condominium conversion proposals that request a density/FAR bonus or in-lieu incentives shall be processed concurrently with any other required project development application (i.e., tentative maps, parcel maps, design review, conditional use permits, etc.), and shall be made a condition of the discretionary permits, and execution of such agreement shall be required prior to the issuance by the City of a building permit for the development. The Affordable Housing Agreement shall be consistent with Section 19.90.110 of this Chapter.
- I. No Requirement to Approve Conversion. Nothing in this Section shall be construed to require that the City approve a proposal to convert apartments to condominiums.

19.90.070 Housing with Child Day Care Centers.

A. When a developer proposes to construct a housing development that conforms to the requirements of Section 19.90.040(A) of this Chapter, and includes a child day care center that will be located on the premises of, as part of, or adjacent to, the project, the following provisions shall apply:

1. Bonus or Incentive/Concession. The decision-making body shall grant either of the following:
 - a. Density/FAR Bonus. An additional density/FAR 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 day care center; or
 - b. Incentive/Concession. An additional incentive or concession that contributes significantly to the economic feasibility of the construction of the child day care center.
2. Conditions of Approval. The decision-making body shall require, as a condition of approval of the housing development, that the following occur:
 - a. Period of Operation for Child Care Center. The child day care center shall remain in operation for a period of time that is as long as or longer than the period of time during which the target units are required to remain affordable, pursuant to Section 19.90.090 of this Chapter; and
 - b. Income Requirements. The percentage of children who are of Very Low, Lower, or Moderate Income households shall be equal to or greater than the percentage of dwelling units that are required for Very Low, Lower, or Moderate Income households pursuant to Section 19.90.040(A) of this Chapter.
3. Findings to Deny Bonus or Incentive/Concession. Notwithstanding any requirement of this Section, the decision-making body shall not be required to provide an additional density/FAR bonus, incentive or concession for a child day care center if it finds, based on substantial evidence, that the community has an adequate number of child day care centers.

19.90.080 Affordable and Senior Housing Standards.

A. Balanced Communities Affordable Housing Policy. Notwithstanding a developer's request to process a development project pursuant to this Chapter, such project may be subject to the City's General Plan Housing Element Balanced Communities Affordable Housing Policy and any such implementing document that may be established and amended from time to time. To the extent that the provisions of this Chapter and the Balanced Communities Affordable Housing Policy and any implementing documents are in conflict, the provisions of this Chapter shall prevail.

- B. Concurrent Development. Target units shall be constructed concurrently with non-restricted units unless both the City and the developer agree within the Affordable Housing Agreement to an alternative schedule for development.
- C. Location & Dispersal of Units. Target units and density/FAR bonus units should be built on site (within the boundary of the proposed development) and when practical, be dispersed within the housing development.
- D. Off-Site Alternative. Circumstances may arise in which the public interest would be served by allowing some or all of the designated target units to be produced and operated at a development site different than the site of the associated housing development, also known as an off-site alternative. Where the City and the applicant form such an agreement, both the associated target and non-restricted units of the housing development shall be considered a single housing development for the purposes of this Chapter, and the applicant shall be subject to the same requirements of this Chapter pertinent to the target units to be provided at an off-site alternative.
- E. Bedroom Unit Mix. The housing development shall include a mix of target units (by number of bedrooms) in response to the affordable housing demand priorities of the City as may be identified within the City's Housing Element or consistent with the unit mix of non-restricted units.
- F. Compliance with Development Standards and Codes. Housing development projects shall comply with all applicable development standards, except those which may be modified as an incentive or concession or will have the effect of physically precluding the construction of a development providing the target units at the densities or with the concessions or incentives permitted by Section 19.90.050, or as otherwise provided for in this Chapter.
- G. Design Consistency. The design and appearance of the target units shall be consistent or compatible with the design of the total housing development in terms of appearance, materials, and finished quality.
- H. Parking. Upon the request of the developer, the parking ratio (inclusive of handicap and guest parking) for a housing development that conforms to the requirements of Section 19.90.040(A) of this Chapter shall not exceed the ratios specified in Table F, below. Such request and application of this parking ratio shall not be considered an incentive/concession per Section 19.90.050(A). If the developer does not request the parking ratios specified in Table I or the project does not conform to the requirements of Section 19.90.040(A) of this Chapter, the parking standards of the applicable zone as specified in Section 19.62 of the Municipal Code shall apply.
 - 1. Fractional Parking Spaces. If the total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number.

- 2. Tandem and Uncovered Parking. For purposes of this Section, a housing development may provide “on-site” parking through tandem parking or uncovered parking, but not through on-street parking.
- 3. Additional Parking Incentives/Concessions. The developer may request additional parking incentives or concessions beyond those provided in this Section, as specified in Section 19.90.050(A) of this Chapter.

Table F
Parking Ratio for Housing Development
projects

Dwelling Unit Size	On-Site Parking Ratio <i>(Inclusive of Handicapped & Guest Parking)</i>
0-1 bedrooms	1 space per unit
2-3 bedrooms	2 spaces per unit
4 or more bedrooms	2.5 spaces per unit

- I. Waiver/Reduction of Development Standards. Any waiver or reduction from the applicable development standards shall be limited to those necessary to implement the density and incentives/concessions to which the developer is entitled under Section 19.90.050.
 - 1. Adverse Impact. Nothing in this Section shall be construed to require that the City waive or reduce development standards that would have an adverse impact upon the health, safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Adverse impact is defined in paragraph (2) of subdivision (d) of Section 65589.5 of the California Government Code and any subsequent amendments and revisions.
 - 2. Historical Resources & Conflict with Law. Nothing in this Section shall be construed to require that the City waive or reduce development standards that would have an adverse impact on any real property that is listed in the California Register of Historical Resources or to grant any waiver or reduction that would be contrary to state or federal law.

19.90.090 Affordability Tenure.

- A. Lower and Very Low Income Housing. All target units for Lower and Very Low Income households shall remain restricted and affordable to the designated group for a period not less than 30 years, or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental financing subsidy program.

- B. Moderate Income. All target units for Moderate Income persons or families shall be initially occupied by the designated group and offered at an allowable housing expense. The target unit(s) shall be subject to an equity sharing agreement, as set forth by Section 65915 of the Government Code, unless in conflict with the requirements of another public funding source or law.

19.90.100 Application Requirements and Review.

- A. Preliminary Application. A developer proposing a housing development pursuant to this Chapter may submit a preliminary application prior to the submittal of any formal request for approval. Developers are encouraged to schedule a pre-application conference with designated staff of the Development Services Department to discuss and identify potential application issues, including prospective incentives or concessions pursuant to Section 19.90.050 of this Chapter.
- B. Application. The developer shall submit an Affordable Housing Application, which will be treated as part of any other required development application, requesting a density/FAR bonus and/or incentive(s) or concession(s), pursuant to this Chapter. The proposed housing development may require other project development application(s) (e.g. tentative map, parcel map, design review, and conditional use permits). Under such circumstances, the Affordable Housing Application shall be processed concurrently.
- C. Approval of an Application. When a project involves a request for a density/FAR bonus, incentive(s) or concession(s) or in-lieu incentives, the decision-making body shall make a written finding, as part of the approval of the development application(s) required for the project or as part of the approval of the Affordable Housing Agreement, that the project is consistent with the provisions of this Chapter. The granting of an incentive/concession 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 application(s), 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.

19.90.110 Affordable Housing Agreement.

- A. Execution of Agreement. Developers, requesting a density/FAR bonus, incentive(s) or concession(s), or in-lieu incentives pursuant to this Chapter, shall demonstrate compliance with this Chapter by executing an Affordable Housing Agreement with the City.
- B. Recordation. Following execution of the Affordable Housing Agreement by all parties, the completed Affordable Housing Agreement, with the approved site development plan, shall be recorded against the entire development, including non-restricted lots/units; and the relevant terms and conditions therefrom filed and recorded as a deed restriction or regulatory agreement on those individual lots or units of a property which are designated for the location of target units. The approval shall take place prior to final map approval and

recording shall occur concurrent with the final map recording, or where a map is not being processed, prior to issuance of building permits for such parcels or units. The Affordable Housing Agreement shall be binding to all future owners and successors in interest.

C. Provisions. The Affordable Housing Agreement shall set forth the conditions and guidelines to be met in the implementation of this Chapter to include, but not be limited to, the following:

1. Number of Units. The number of total residential units and the density bonus and target units approved for the housing development.
2. Term of Affordability. The number of years the occupancy and affordability restrictions for target units remain in place.
3. Phasing Schedule. A schedule of production and occupancy of target units.
4. Incentives/Concessions. A description of the incentive(s), concessions, or in-lieu incentives of equivalent financial value being provided by the City.
5. Operation and Maintenance. The rules and procedures for qualifying tenants, establishing affordable rent, filling vacancies, operating and maintaining target units for qualified tenants.
6. Ongoing Monitoring. Provisions requiring developers to demonstrate compliance with this Chapter.
7. Initial Sale. Where applicable, tenure and conditions governing the initial sale of for-sale target units.
8. Remedies. A description of remedies for breach of the Agreement by either party.
9. 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. Balanced Communities Regulatory Agreement. Where a regulatory agreement is required to demonstrate the developer's compliance with the City's Balanced Communities-Affordable Housing Policy and/or as a condition of the City's direct financial assistance, the Affordable Housing Agreement may be combined into one single Housing Regulatory Agreement.

19.90.120 Agreement Processing and Administrative Fee.

Over the minimum tenure of projects containing target units, the City will either directly or, via one or more third parties, provide for the preparation and/or reviewing of all Affordable Housing Agreements and recurring services associated with the administration 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 by ordinance of the City Council.

19.90.130 Noticing and Procedural Requirements for Expiring Rental Restrictions.

- A. Tenant Notices of Expiring Affordability. The developer shall give notices consistent with California Government Code 65863.10 through 65863.13 in anticipation of the expiration of affordable housing restrictions to each affected tenant household.
- B. Notices to Prospective and New Tenants. All prospective and new tenants to the housing development shall be provided at the time of their application for tenancy a copy of all notices issued per this Section to existing tenants.
- C. Notices to the City of Chula Vista and State. The developer shall provide a copy of all notices consistent with California Government Code 65863.10 through 65863.13 in anticipation of the expiration of affordable housing restrictions to the City of Chula Vista Development Services Department and the State Department of Housing and Community Development.
- D. First Class Mailed Notices. All notices to affected tenants, the City of Chula Vista and the State Department of Housing and Community Development shall be sent by first-class mail postage prepaid.

19.90.140 First Right of Refusal to Purchase Rental Housing.

For rental housing development projects, the City or a designee shall have first right of refusal to purchase rental housing development projects containing target units offered for sale at any time within five years of the end of the minimum tenure of affordability and upon expiration of the rental restrictions, consistent with California Government Code 65863.10 through 65863.13.

- A. Designees. The City shall consider as designees all qualified entities or individuals as listed by the State Department of Housing and Community Development or who have contacted the developer directly.
- B. Notice to City and Designees. The developer shall give notice of the opportunity to purchase the housing development to City and all designees consistent with California Government Code 65863.10 through 65863.13
- C. Exercising First Right of Refusal. Within one hundred eighty (180) days of its receipt of the notice of an opportunity to purchase, the City or the designee shall indicate its intent to exercise the first right of refusal for the purpose of providing affordable housing by submitting a bona fide offer to purchase. During this one hundred eighty (180) day period, the developer shall not accept an offer to purchase by any other entity.

- D. Close of Escrow. Upon exercising its right of first refusal pursuant to Section 19.90.140 (C), the City or its designee will make a good faith effort to close escrow within a reasonable period, assumed to be approximately one-hundred twenty days.
- E. Appraisal. The fair market value, at the time of sale, assuming continued affordability restrictions of the housing development shall be determined by an appraisal, as requested by the City, the designee, or the developer. Costs associated with the appraisal shall be borne by the requesting party. The appraisal shall be non-binding with respect to sales price of the development offered in the bona fide offer to purchase, or the acceptance or rejection of the offer.
- F. Failure to Exercise Right. If the City or its designee fails to exercise its option of first right of refusal to purchase the housing development within 180 days of notification of the opportunity to purchase, then the target units may be converted to market rate units with no income or rent restrictions as allowed by California Government Code 65863.10 through 65863.13.

19.90.150 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 ordinance shall control all applicable land use applications which do not have final approval on the effective date of the Chapter.

SECTION II. Environmental Determination. The City Council does hereby find and determine that the adoption and implementation of proposed Chapter 19.90 of the Municipal Code by establishing requirements for the reservation and affordability of housing units for Very Low, Lower and Moderate Income households and senior citizens in residential projects under a city wide Affordable Housing Incentive ordinance will not result in any physical development in and of itself, and thus will not have an impact on the environment. The City Council does hereby further find and determine that the subject Affordable Housing Incentive ordinance is exempt from the California Environmental Quality Act (CEQA) based on CEQA Guidelines Section 15061 (b)(3), because it can be seen with certainty that there is no possibility that this activity has the potential to have a significant effect on the environment, and therefore, is not subject to CEQA.

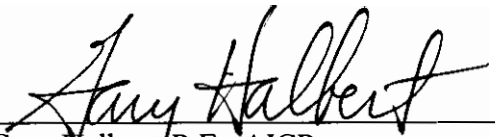
SECTION III. Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid and/or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

SECTION IV. Effective Date. This ordinance shall become effective thirty (30) days after its second reading and adoption.

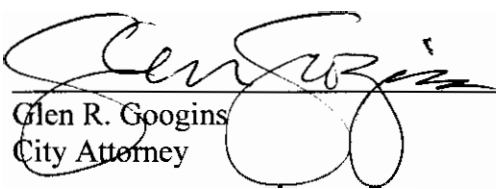
SECTION V. The City Clerk is directed to publish this ordinance in accordance with the City Charter and applicable state law.

Presented by

Approved as to form by



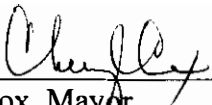
Gary Halbert, P.E., AICP
Assistant City Manager/Director of
Development Services



Glen R. Googins
City Attorney

PASSED, APPROVED, and ADOPTED by the City Council of the City of Chula Vista, California, this 8th day of January 2013, by the following vote:

- AYES: Councilmembers: Aguilar, Bensoussan, Ramirez, Salas and Cox
- NAYS: Councilmembers: None
- ABSENT: Councilmembers: None



Cheryl Cox, Mayor


ATTEST:

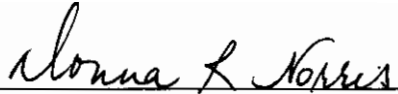


Donna R. Norris, CMC, City Clerk

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO)
CITY OF CHULA VISTA)

I, Donna R. Norris, City Clerk of Chula Vista, California, do hereby certify that the foregoing Ordinance No. 3250 had its first reading at a regular meeting held on the 11th day of December 2012 and its second reading and adoption at a regular meeting of said City Council held on the 8th day of January 2013; and was duly published in summary form in accordance with the requirements of state law and the City Charter.


Dated



Donna R. Norris, CMC, City Clerk