

DIVISION IV. - VOLUNTARY INCENTIVE PROGRAM TO CREATE HOUSING FOR VERY LOW AND LOW INCOME HOUSEHOLDS

21.60.410 - Purpose and goals.

- A. The purpose of this Division IV is to provide additional housing opportunities in the City of Long Beach for very low and low income households, as defined by HUD for the Los Angeles/Long Beach Standard Metropolitan Statistical District (SMSA), through a voluntary program offering incentives and bonuses to private developers, representatives of which private developers and certain business associations in Long Beach have assured the City of Long Beach will stimulate the production of such housing.
- B. The effectiveness of the voluntary incentive program set forth in this Division IV in stimulating the production of housing shall be measured by determining whether during the period of April 9, 1991 to October 9, 1992, and during annual periods thereafter as set forth hereunder, the number of housing units affordable to low and very low income households constructed, under construction, rehabilitated as defined herein or provided for through payment of an in-lieu fee, under this voluntary incentive program are equal to or greater than the number of housing units affordable to very low or low income households which, during the same period, were demolished or converted to condominiums not affordable to such households. Consideration shall also be given to the extent which the units produced are comparable in size to those demolished or converted and/or meet the highest priority needs as expressed in the housing element.
- C. Affordable units demolished and affordable units produced as a direct result of government programs other than those of the City, including its Housing Authority, Department of Community Development, and the Long Beach Housing Development Company, shall count as units demolished or produced under this Division IV.

(Ord. C-6894 § 1 (part), 1991)

21.60.420 - Incentive program.

- A. Every development project of five (5) or more housing units in the City of Long Beach, on any site where zoning permits development to densities of thirty (30) units per acre or greater, shall be entitled to a density bonus not to exceed twenty-five (25) percent of the number of units otherwise allowed under applicable zoning regulations if, but only if:
  - 1. At least twenty-five (25) percent of the bonus units granted are set aside, for ten (10) years for sale units and thirty (30) years for rental units, to be housing affordable to very low income households; or
  - 2. At least fifty (50) percent of the bonus units granted are set aside for ten (10) years for sale units and thirty (30) years for rental units, to be housing affordable to low income households.
- B. 1. The requirement of affordable units may be met by the provision of on-site units, off-site units, rehabilitated units, or the payment of an in-lieu fee, all as set forth in this Division. At the request of the property owner, the City may agree to fulfilling the requirement for affordable units by a combination of these provisions.
- 2. The in-lieu fee payable under this Division IV shall be twenty-seven thousand, eight hundred dollars (\$27,800.00), as adjusted annually to reflect the Construction Cost Index for the Los Angeles/Long

Beach statistical area, times the number of bonus density units granted. The fee shall be paid prior to issuance of a building permit for the property subject to the fee.

- C. Upon application by a developer, a density bonus of less than twenty-five percent (25%) may be granted to a developer of housing units offering less than the percentage of new units set forth in Subsection 21.60.420.A, provided that the density bonus so granted shall be reduced proportionately to the reduction of new or rehabilitated units provided.
- D. Any project proposing to utilize the incentive program of this Division IV shall be subject to site plan review as set forth in Division V of Chapter 21.25 of this Title 21.
- E. 1. Affordable units for sale shall remain affordable to low or very low income households by deed restriction for at least ten (10) years. Affordable units for rent shall remain affordable to low or very low income households by deed restrictions for at least thirty (30) years.
  - 2. Reasonably unforeseen increases in finance and/or operating costs, which have risen faster, as a percentage of total income received, than the percentage of increase in rental rates on affordable units, may be adjusted by appeal to and with the prior approval of the Housing Services Bureau of the Community Development Department at any time after three (3) years from the recordation of the deed restriction, provided that no such adjustment shall be granted that would cause a unit to be no longer affordable to persons of very low or low income households.
- F. A project qualifying for a density bonus and actually furnishing units and/or payment of the in-lieu fee pursuant to and in full compliance with this Section 21.60.420 may reduce the notice requirement of Subsection 21.60.130.B.1 to no less than three (3) months if otherwise meeting the conditions of Subsection 21.60.310.A.4.
- G. The density program and incentives provided in this Division IV shall be in lieu of any other such program or incentives provided by or arising under State law as an inducement for the provisions or development of affordable housing units and are not intended to be used in conjunction with incentives required to be provided under Section 65915 of the California Government Code.
- H. In determining the number of units required pursuant to this Division IV, any decimal fraction less than 0.49 shall be rounded down to the nearest whole number and any fraction of 0.5 or more shall be rounded up to the nearest whole number and any fraction of 0.5 or more shall be rounded up to the nearest whole number, provided that no less than one (1) affordable unit shall be constructed at any site which is provided a density bonus.

(Ord. C-6933 § 38, 1991; Ord. C-6894 § 1 (part), 1991)

21.60.430 - Review of projects providing housing for very low or low income households and design standards.

- A. At the time the plans are submitted to the Department of Planning and Building for initial review, the project proposal shall specify the number, type, location, size and construction scheduling of any dwelling units to be developed and shall indicate which units are proposed for rental or sale for the purpose of satisfying the requirements of this Division IV.
- B. If located on the project site, such units shall, whenever reasonably possible, be distributed throughout the project. The applicant may, with the prior approval of the City through the site plan review process, reduce the size and amenities of the units so long as there are not significant identifiable differences between the units visible from the exterior of the unit and the design of the units are consistent with the

rest of the development, provided that all units shall conform in all ways to the requirements of the applicable building and housing codes. Units so provided shall have at least the same number of bedrooms as the average market rate unit in the project and shall be subject to the following minimum size limits:

0 Bedrooms—	450 square feet;
1 Bedroom —	600 square feet;
2 Bedrooms—	750 square feet;
3 Bedrooms—	1,000 square feet;
4 Bedrooms—	1,200 square feet;

- C. All affordable units required by this Division IV in a project and all phases of a project shall be constructed concurrently with the construction of market rate units, and such affordable units developed on the development site shall be rental units in rental developments and for-sale units in ownership projects.
- D. If the applicant can demonstrate that the bonus density provided cannot be physically accommodated on the site, the City may waive development standards during site plan review to accommodate the increased density in accordance with Section 21.63.080 of the Municipal Code.

(Ord. C-6894 § 1 (part), 1991)

21.60.440 - Provision of units off-site.

- A. Units required by this Division IV may be provided by rehabilitation or new construction at a location within the City other than the project site, subject to review and prior approval by the City. Any such off-site units shall be completed prior to the issuance of a certificate of occupancy for the market rate housing unit project and shall conform to the requirements of the applicable building and housing codes and the minimum size and bedroom provisions set forth in Section 21.60.430. The off-site units need not be in the same ownership as the project, provided that they are deed-restricted in accordance with Section 21.60.470, and provided that a record of such off-site units together with such deed restriction shall be filed with the Department of Planning and Building at the time of the recordation of such restriction for the purpose of identifying such units for future credits. In no event may units provided off-site be credited more than once.
- B. It is the intent of the City that, in permitting developers to rehabilitate extant deteriorating off-site residential structures in lieu of constructing new affordable units on-site, such action will extend the potential useful life of the residential structure by thirty (30) years and will insure that the unit remains affordable during that period. Therefore, rehabilitation of existing residential units may be substituted on a one-for-one basis for construction of new affordable units if the rehabilitation cost equals or exceeds

twenty-five percent (25%) of the replacement cost of the unit as calculated by the City's chief Building Official. Rehabilitated units must conform in use and density to the current zoning, but need not conform to the current development standards. Alternately, rehabilitation to existing residential units may be substituted on a two-for-one basis for construction of new affordable units if the rehabilitation cost of each unit equals or exceeds twelve and one-half percent (12½%) of the replacement cost of the units as calculated by the Building Official. In multi-unit buildings, the per unit cost of rehabilitation shall be calculated by dividing the total rehabilitation cost for the structure or the total replacement cost for the structure by the number of residential units in the structure.

- C. The occupancy and sale or rental prices of such off-site units shall be governed by the terms of a deed restriction similar to that used for on-site units furnished pursuant to this Division IV which shall be structured to take precedence over all other covenants, liens and encumbrances.

(Ord. C-7247 § 27, 1994; Ord. C-6933 § 39, 1991; Ord. C-6894 § 1 (part), 1991)

#### 21.60.445 - Condominium conversion.

- A. A developer proposing to convert to condominium units apartments which are affordable to low or very low income households may reduce the notice requirements of Subsection 21.60.310.A.1 to no less than three (3) months if at least ten percent (10%) of the affordable apartments converted to condominium units are set aside for ten (10) years to be housing affordable to low income households or at least five percent (5%) of the affordable apartments converted to condominium units are set aside for ten (10) years to be housing affordable to very low income households. However, in no case shall the notice requirements be reduced below those specified in Section 20.32.040 of the subdivision regulations (Title 20 of this Code). In making this calculation, a unit will not be counted as an affordable apartment if the applicant provides evidence to the satisfaction of the Housing Services Bureau of the Department of Community Development that it has been continuously vacant for at least six (6) months prior to the application, or that the unit has been occupied for at least six (6) months prior to the application by a household which is not low or very low income.
- B. The requirement for affordable units may be met by the provision of on-site units, off-site units as provided in Subsection 21.60.440.A, rehabilitated units as provided in Subsection 21.60.440.B, or the payment of an in-lieu fee for each affordable unit required of sixty-nine thousand five hundred dollars (\$69,500.00), as adjusted annually to reflect the construction cost index for Los Angeles/Long Beach Statistical Area.
- C. Affordable units for sale shall remain affordable to low or very low income households by deed restriction for at least ten (10) years. Affordable units for rent shall remain affordable to low or very low income households by deed restrictions for at least thirty (30) years. Reasonably unforeseen increases in finance and/or operating costs, which have risen faster, as a percentage of total income received, than the percentage of increase in rental rates on affordable units, may be adjusted by appeal and approval of the Housing Services Bureau of the Community Development Department at any time after three (3) years from the recordation of the deed restriction, providing that no such adjustment shall be granted that would cause such a unit to be no longer affordable to a person of very low or low income housing as applicable.

(Ord.C-6894 § 1 (part), 1991)

## 21.60.450 - Pricing of units furnished pursuant to or as a result of this Division IV.

Affordable units required pursuant to this Division IV shall be priced in accordance with HUD guidelines for the Los Angeles/Long Beach SMSA which defines units affordable to low and very low income households. For the express purpose of establishing income guidelines on projects for sale, thirty-five percent (35%) of a qualifying household's gross monthly income shall be allowed. Allowable rents and sales prices will be established by City ordinance or resolution based on HUD guidelines. Such guidelines shall be re-established within thirty (30) days after announcement of new income guidelines by HUD. Pricing of units for sale or rent shall be set at the time of closing of escrow using the most recent HUD guidelines then available. No charge or fee shall be imposed on the purchase of an affordable unit furnished pursuant to this Division IV which is in addition to or more than such charges or fees imposed upon purchases of market rate units.

(Ord.C-6894 § 1 (part), 1991)

## 21.60.460 - Eligibility requirements.

- A. Only very low and low income households shall be eligible to occupy affordable units provided pursuant to this Division IV. The City will use guidelines established by HUD in the Los Angeles/Long Beach SMSA determining household income minimum and maximum occupancy standards and other eligibility criteria.
- B. The following are those individuals who, by virtue of their position or relationship, shall be ineligible to purchase or rent a unit provided pursuant to this Division IV as their residence:
  1. All employees and officials of the City of Long Beach or its agencies, authorities or commissions who have, by the authority of their position, policy-making authority or influence affecting City housing programs.
  2. The immediate relatives of, employees of, and anyone gaining significant economic benefit from a direct business association with such public employees or officials.
- C. Prior to sale or rental of the affordable units, the owner shall be required to submit to the Housing Services Bureau for its approval the following documents:
  1. A Bureau-approved income certification form signed by the owner attesting to household income; and
  2. Satisfactory evidence of attested household income. In setting priorities among eligible households, the applicant, owner, or City shall generally give first priority to Long Beach residents, second to persons employed in Long Beach, and third to other persons.

(Ord. C-6894 § 1 (part), 1991)

## 21.60.470 - Deed restrictions.

- A. Prior to issuance of a building permit for a project requesting bonus density or containing any other affordable requirement, applicant shall supply to the City for review and approval deed restrictions or other legal instruments in a form satisfactory to the City attorney, setting forth the obligations of the

applicant under this program, and shall record same in the office of the Los Angeles County Recorder. Such restrictions shall remain in effect for at least thirty (30) years for rental units and at least ten (10) years for sale-units.

- B. 1. Applicable deed restrictions, in a form satisfactory to the City Attorney, shall contain provisions for enforcement of owner/developer compliance. Any default or failure to comply may result in, but is not limited to the following actions:
- a. Revocation of conditional use permit;
  - b. Withdrawal of certificate of occupancy;
  - c. Foreclosure; or
  - d. Specific performance.
2. In any action taken pursuant to this Subsection B to enforce compliance with deed restrictions, the City Attorney shall, if such compliance is ordered by a court of competent jurisdiction, take all such action as may be permitted by law to recover all City's costs of such action, including the costs of legal services.
- C. Deed restrictions on affordable for-sale units shall contain provisions governing resale prices prior to expiration of the ten (10) year limitation period requiring the owner to use its best efforts to offer the affordable unit to low or very low income households only for a period of at least sixty (60) days, provided that if a loan involving such unit or units is to be sold to the Federal National Mortgage Association ("FNMA") the deed restrictions shall be conformed to all then current FNMA requirements. Unless necessitated by such FNMA requirements, these units shall not be sold at a price higher than that affordable to low and very low income households prior to expiration of the deed restrictions.

(Ord. C-6894 § 1 (part), 1991)

#### 21.60.480 - Petition for subordination.

Upon foreclosure or similar proceeding relating to an affordable unit/units provided pursuant to this Division IV, a lienholder may petition the Director of Community Development for relief from economically adverse impacts of the procedure on the lienholder. If the lienholder can show that the financial feasibility of the project may be lost if restrictions relating to affordability are maintained as to the unit/units subject to the proceeding, the City Council may, upon recommendation of the Director of Community Development, authorize the City Manager to agree to subordinate covenants relating to the affordability of the unit/units to the lienholder's requirements.

(Ord. C-6894 § 1 (part), 1991)