

REVISED LEGISLATIVE DIGEST

(6/13/2016, Amended in Committee)

[Planning Code - Affordable Housing Bonus Programs]

Ordinance amending Planning Code, Section 206, to amend the 100 Percent Affordable Housing Bonus Program to add the Local Affordable Housing Bonus Program, the Analyzed State Density Bonus Program, and the Individually Requested State Density Bonus Program, to provide for development bonuses and zoning modifications for affordable housing, in compliance with, and above those required by the State Density Bonus Law, Government Code, Section 65915, et seq.; to establish the procedures in which the Local Affordable Housing Bonus Program shall be reviewed and approved; adding a fee for applications under the Program; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

Existing Law

Planning Code Section 206, the 100% Affordable Housing Bonus Program, allows increased density and exceptions to otherwise applicable zoning requirements for residential projects where all of the dwelling units are affordable units. Planning Code section 328 sets forth the procedures by which the Planning Commission reviews 100% Affordable Housing Bonus Program projects. Planning Code Section 303 *et seq.* sets forth procedures for determinations regarding applications for the authorization of conditional uses.

Amendments to Current Law

The Proposed Legislation adds three new programs to the 100% Affordable Housing Bonus Program ("AHBP"). As amended, the AHBP consists of four separate programs to incentivize the construction of housing affordable to very low, low, moderate, and middle-income households by granting a range of development bonuses. The Local Program, the first program set forth below, and the existing 100% Affordable Housing Bonus Program operate independently from State law; the second two programs outlined below, taken together, implement the State Density Bonus Law.

- (1) The Local Affordable Housing Bonus Program: a local density bonus program that provides up to two additional floors and other zoning incentives to a project sponsor who provides a total of 30 percent of its units as affordable units – generally by restricting 12 percent of units under the Inclusionary Affordable Housing Program ("Inclusionary Units") and 18 percent of units restricted to middle income households, defined as households earning not more than 140 percent of Area Median Income ("AMI"). It applies to projects of three units or more and only in certain enumerated

zoning districts on parcels that do not contain residential uses. Projects under this program would require conditional use approval.

- (2) The Analyzed State Density Bonus Program: a density bonus program under State law, which provides up to a 35 percent density bonus for projects that provide 12 percent or more on-site Inclusionary Units and meet other criteria beyond State law requirements. Projects receive process improvements and must choose from a menu of specific incentives. It applies to projects of five units or more units and only in certain enumerated zoning districts.
- (3) The Individually Requested State Density Bonus Program: a program that provides a density bonus under State law of up to 35 percent and other incentives requested by the project sponsor for projects consistent with all of the State's requirements. It applies in all zoning districts to projects of five units or more.

The Proposed Legislation also creates a new fee for applications for projects under the Program.

Background Information

In 1979, the State of California adopted the State Density Bonus Law, which requires all cities and counties to offer a density bonus and other incentives to housing developments that include a certain percentage of units available to very low, low, or moderate-income households. The Planning Code encourages increased density where project sponsors provide affordable housing through various mechanisms including through Special Use Districts, exceptions to the calculation of residential density, and the provision of additional Floor Area Ratio (FAR) in certain circumstances.

The AHBP is one of the tools put forward by the City to address its affordable housing goals. The local components of the AHBP were developed to go beyond the State Law affordability requirements. The proposed AHBP implements the 2014 Housing Element, builds on the City's Inclusionary Housing Ordinance, and helps the City meet the housing goals mandated in Proposition K.

NOTE:

The Proposed Legislation was originally introduced in September 2015, with substitute legislation introduced in January 2016. The Land Use and Transportation Committee heard the Proposed Legislation on June 13, 2016, wherein the legislation was amended, and the file was duplicated. In July 2016, in Ordinance 143-16, the Board of Supervisors adopted the 100% Affordable Housing Bonus Program. That ordinance created Planning Code Section 206 (the 100% AHBP) and Section 328, which sets forth the 100% AHBP review procedures. It also amended Planning Code Sections 250 and 260, both related to height limits; and Planning Code Section 352, related to permit application fees. In August 2016, in Ordinance 149-16, the Board repealed Planning Code Section 352.

This version of the Proposed Legislation is a technical correction to reflect the changes made to the Planning Code in Ordinance Nos. 143-16 and 149-16. Where appropriate, this version shows Section 206 as “unchanged code and text,” in plain Arial font. Amendments to Section 206, where necessary to implement the three new programs outlined above, are shown in either underline/strikethrough Times New Roman, or, if introduced as part of the June 13, 2016 amendments adopted at the Land Use and Transportation Committee, as double-underlined or strikethrough in Arial.

Planning Code Sections 250 and 260 were amended in Ordinance 143-16 and no longer need amending to implement the three new programs; therefore these sections are no longer included in this technical correction. Likewise, Planning Code Section 352, which established various Planning Department permit application fees, was repealed and therefore is not included as an amendment in this ordinance. Instead, fees for applications under the AHBP are set forth as uncodified text.

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