

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4421
(619) 767-2370



April 27, 2016

W11f

TO: COMMISSIONERS AND INTERESTED PARTIES

FROM: JOHN AINSWORTH, ACTING EXECUTIVE DIRECTOR

SUBJECT: EXECUTIVE DIRECTOR'S DETERMINATION that the action by the City of Imperial Beach, certifying the City's Local Coastal Program Amendment No. LCP-6-IMB-14-0838-1 (Affordable Housing Density Bonus and Special Needs Housing), is adequate to effectively certify its local coastal program (for Commission review at its meeting of May 11-13, 2016)

BACKGROUND

At its March 11, 2015 meeting, the Coastal Commission certified, with suggested modifications, the City of Imperial Beach's Local Coastal Program Amendment No. LCP-6-IMB-14-0838-1, regarding two Housing Element programs that addressed, in part, affordable housing and density bonuses, special needs housing and reasonable accommodations. By its actions initially on June 3, 2015 and then adopting Ordinance No 2016-1155 on March 16, 2016, the City Council has acknowledged and accepted all of the Commission's suggested modifications. The modifications addressed the need to recognize and require conformance with the City's LCP. The City already has coastal development permit authority over this geographic area and will continue issuing permits consistent with the local coastal program as amended.

As provided for in Section 13544 of the Commission's Code of Regulations, the Executive Director must determine if the action of the City of Imperial Beach is legally sufficient to finalize Commission review of the LCP amendment. The City's actions have been reviewed and determined to be adequate by the Executive Director. Section 13554 of the Commission's Code of Regulations then requires this determination be reported to the Commission for its concurrence.

RECOMMENDATION

Staff recommends that the Commission **CONCUR** with the Executive Director's determination as set forth in the attached letter (to be sent after Commission endorsement).

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4402
(619) 767-2370



May 16, 2016

Mayor Serge Dedina
City of Imperial Beach
825 Imperial Beach Blvd.
Imperial Beach, CA 91932

RE: Certification of the City of Imperial Beach Local Coastal Program Amendment
No. LCP-6-IMB-14-0838-1 (Affordable Housing Density Bonus and Special Needs
Housing)

Dear Mayor Dedina,

The California Coastal Commission has reviewed the City's adopted Ordinance No 2016-1155 together with the Commission's action of March 11, 2015 certifying City of Imperial Beach Local Coastal Program Amendment No. LCP-6-IMB-14-0838-1 pertaining to two of the City's housing element programs. In accordance with Section 13544 of the Commission's Code of Regulations, I have made the determination that the City's actions are legally adequate and the Commission has concurred at its meeting of May 11-13, 2016.

By its action on March 16, 2016, the City has formally acknowledged and accepted the Commission's certification of the Local Coastal Program Amendment including all suggested modifications. The modifications addressed the need to recognize and require conformance with the City's certified LCP. The City is already issuing coastal development permits in conformance with the certified local coastal program for this area.

In conclusion, I would like to congratulate you and all other elected or appointed officials, staff and concerned citizens for continuing to work towards full implementation of the Coastal Act. We remain available to assist you and your staff in any way possible as you continue to develop and implement the City's local coastal program.

Sincerely,

John Ainsworth
Acting Executive Director

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ORDINANCE NO. 2016-1155

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH MODIFYING, PURSUANT TO COASTAL COMMISSION CERTIFICATION ORDER, ORDINANCE NO. 2014-1146 THAT AMENDED TITLE 19 (ZONING) OF THE IMPERIAL BEACH MUNICIPAL CODE THAT PROPOSED IMPLEMENTING PROGRAMS 12 AND 13 OF THE 2013-2021 (5TH CYCLE) HOUSING ELEMENT. MF 1060.

WHEREAS, on January 23, 2013, the City Council of the City of Imperial Beach held a duly advertised public hearing and adopted Resolution No. 2013-7287 that approved the 2013-2021 (5th Cycle) Housing Element; and

WHEREAS, on February 21, 2013, the adopted Housing Element was certified by the California Department of Housing and Community Development (HCD); and

WHEREAS, on July 16, 2014, the City Council of the City of Imperial Beach held a duly advertised public hearing to introduce and consider for First Reading Ordinance No. 2014-1146 and, thereafter, on August 6, 2014, for its Second Reading adopted Ordinance No. 2014-1146 amending the Zoning Ordinance that implemented Programs 12 and 13 of the 2013-2021 (5th Cycle) Housing Element; and

WHEREAS, on March 11, 2015, the California Coastal Commission provisionally certified Imperial Beach LCP Amendment No. LCP-6-IMB-14-0838-1 (Ordinance No. 2014-1146) subject to modifications required by the Commission for final certification; and

WHEREAS, the City Council held a duly advertised public hearing on February 17, 2016 to consider the zoning modifications suggested by the Coastal Commission and acknowledges receipt of and agrees to the Coastal Commission's resolution of certification including any terms or modifications required by the Commission for final certification; and

WHEREAS, the City Council finds that the proposed implementing zoning amendments would be externally consistent with the General Plan/ Local Coastal Plan, specifically the Housing Element, pursuant to Government Code Section 65860; and

WHEREAS, the City Council of the City Of Imperial Beach hereby finds that the implementing zoning amendments of the 2013-2021 Housing Element is in substantial compliance with the California Housing Element Law (Government Code Section 65580 et seq); and

WHEREAS, the City Council finds that the Final Negative Declaration (SCH # 2012111006) adopted by the City Council on January 23, 2013 for the Housing Element remains adequate in addressing any environmental effects that may result from the implementation of the policies and programs, including the proposed zoning amendments, of the Housing Element.

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

SECTION ONE: That Ordinance No. 2014-1146 is hereby amended to read as follows:

LCP-6-IMB-14-0838-1
adopted ordinance /
certification review

SECTION 1: That Chapter 19.65 is hereby amended to read as follows:

Chapter 19.65. AFFORDABLE HOUSING DENSITY BONUS

19.65.010. Purpose.

This chapter establishes procedures and requirements to facilitate the development of affordable housing that serve moderate income, low income, very low income, and senior households within the city. To encourage the provision of affordable housing, the city shall provide to developers who meet the requirements established by this chapter and Government Code Section 65915 (Density Bonus Law) a density bonus and the incentives identified in Government Code Section 65915.

19.65.020. Definitions.

As used in this chapter, the following terms shall have the following meanings:

"Affordability" is determined as 30 percent or less of the area median income (AMI) as adjusted for assumed household size for moderate income, low income, and very low income households as defined by the Health and Safety Code.

"Density bonus" means a density increase over the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the general plan as of the date of application by the developer to the City. The density bonus shall apply to residential developments of five or more units. The number of housing units to be reserved for low or very low income households or qualifying residents does not include the density bonus units.

"Equivalent financial value" means to the cost to developer/property owner based on the land cost per dwelling unit. The land cost per dwelling unit is determined by the difference in the value of the land with and without the density bonus.

"Housing development," as used in this chapter, means a development project for five or more residential units. For the purposes of this chapter, "housing development" also includes a subdivision or common interest development, as defined in Section 4100 of the Civil Code, approved by the City and consists of residential units or unimproved residential lots and either a project to substantially rehabilitate and convert an existing commercial building to residential use or the substantial rehabilitation of an existing multifamily dwelling, as defined in subdivision (d) of Government Code Section 65863.4, where the result of the rehabilitation would be a net increase in available residential units. For the purpose of calculating a density bonus, the residential units shall be on contiguous sites that are the subject of one development application, but do not have to be based upon individual subdivision maps or parcels. The density bonus shall be permitted in geographic areas of the housing development other than the areas where the units for the lower income households are located.

"Maximum allowable residential density" means the density allowed under the zoning ordinance and land use element of the general plan, or if a range of density is permitted, means the maximum allowable density for the specific zoning range and land use element of the general plan applicable to the project. Where the density allowed under the zoning ordinance is inconsistent with the density allowed under the land use element of the general plan or, if the proposed density is in an area subject to the City's certified Local Coastal Program, the general plan or the City's certified Local Coastal Program density shall prevail.

"Lower income households" are as currently defined in Section 50079.5 of the Health and Safety Code and any subsequent amendments or revisions.

"Qualifying resident" or "senior citizen" means a person 62 years of age or older, or 55 years of age or older in a senior citizen housing development as defined in Section 51.3 of the Civil Code and any subsequent amendments or revisions.

"Very low income households" are as currently defined in Section 50105 of the Health and Safety Code and any subsequent amendments or revisions. (Ord. 94-888 § 2, 1994; Ord. 94-884)

19.65.030. Density Bonus Application Process.

A. Pursuant to and in accordance with Government Code Section 65915, et seq., an applicant seeking a density bonus for a housing development shall file the completed application with and on a form provided by the Community Development Department. The City shall grant:

1. A density bonus and additional concessions or incentives pursuant to this chapter;

B. In order to qualify for the density bonus, a proposed housing development must consist of five or more dwelling units and meet one or more of the following criteria:

1. At least ten percent of the total units allowed by the maximum permitted density are designated for lower-income households as defined in Section 50079.5 of the Health and Safety Code; or

2. At least five percent of the total units allowed by the maximum permitted density are designated for very low-income households as defined in Section 50105 of the Health and Safety Code; or

3. A senior citizen housing development, as defined in Sections 51.3 of the Civil Code, or 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.

4. Ten percent of the total dwelling units in a common interest development as defined in Section 4100 of the Civil Code for persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code, provided that all units in the development are offered to the public for purchase.

C. This chapter shall not be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 commencing with Section 30000 of the Public Resources Code). In the coastal zone, the density bonus shall be calculated based on the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the general plan as they apply to the project site. The otherwise maximum allowable residential density shall mean the maximum potential density modified by applying all site-specific environmental development constraints identified within the coastal zoning ordinances and land use element certified by the coastal commission. The density bonus shall be applicable to housing developments consisting of five or more units.

D. In the coastal zone, any housing development approved pursuant to Government Code Section 65915 shall be consistent, to the maximum extent feasible, and in a manner most protective of coastal resources, with all otherwise applicable certified local coastal program policies and development standards. Approval of development proposed under this section shall require a finding that the development, if it had been proposed without the twenty-five percent density increase, would have been fully consistent with the policies and development standards of the certified local coastal program. In cases where a density increase is granted pursuant to Government Code Section 65915 which results in development inconsistent with

otherwise applicable certified local coastal program policies and development standards, such as height, parking and setback requirements, the relief granted from such standards shall be considered an additional incentive under Government Code Section 65915. (Ord. 94-888 § 2, 1994; Ord. 94-884)

19.65.040. Density bonus agreement.

A. To be eligible for a density bonus, the developer/property owner must sign a binding agreement with the City which sets forth the conditions and guidelines to be met in the implementation of the density bonus law requirements pursuant to Government Code Sections 65915.(c) and 65917. The agreement will also establish specific compliance standards and remedies available to the City upon failure by the developer/property owner to make units accessible to intended residents. To ensure compliance, the city shall require a security in an amount and in a form acceptable to the City Manager, City Attorney, and the Community Development Department. (Ord. 94-888 § 2, 1994; Ord. 94-884)

B. The developer/property owner shall agree to, and the City shall ensure, continued affordability of all low- and very low income units that qualified the applicant for the award of the density bonus for 30 years or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program. Rents for the lower income density bonus units shall be set at an affordable rent as defined in Section 50053 of the Health and Safety Code. Owner-occupied units shall be available at an affordable housing cost as defined in Section 50052.5 of the Health and Safety Code.

C. The developer/property owner shall agree to, and the City shall ensure that, the initial occupant of the moderate-income units that are directly related to the receipt of the density bonus in the common interest development, as defined in Section 4100 of the Civil Code, are persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code, and that the units are offered at an affordable housing cost, as that cost is defined in Section 50052.5 of the Health and Safety Code. The local government shall enforce an equity sharing agreement, unless it is in conflict with the requirements of another public funding source or law. The following apply to the equity sharing agreement:

1. Upon resale, the seller of the unit shall retain the value of any improvements, the down payment, and the seller's proportionate share of appreciation. The local government shall recapture any initial subsidy, as defined in subparagraph 2, and its proportionate share of appreciation, as defined in subparagraph 3, which amount shall be used within five years for any of the purposes described in subdivision (e) of Section 33334.2 of the Health and Safety Code that promote home ownership.

2. The local government's initial subsidy shall be equal to the fair market value of the home at the time of initial sale minus the initial sale price to the moderate-income household, plus the amount of any down payment assistance or mortgage assistance. If upon resale the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value

3. The local government's proportionate share of appreciation shall be equal to the ratio of the local government's initial subsidy to the fair market value of the home at the time of initial sale.

D. Where there is a direct financial contribution to a housing development pursuant to Government Code Section 65915 through participation in the cost of infrastructure, write-down of land costs, or subsidizing the cost of construction, the City shall assure continued availability for low- and moderate-income units for 30 years. When appropriate, the agreement provided for in Section 19.65.040 shall specify the mechanisms and procedures necessary to carry out this section.

19.65.050. Density bonus calculations.

A. **Low-Income Units.** For housing developments meeting the criteria of Section 19.65.030.B.1, the density bonus shall be calculated as follows:

Percentage Low-Income Units	Percentage Density Bonus	Incentives/concessions
10	20	1
11	21.5	1
12	23	1
13	24.5	1
14	26	1
15	27.5	1
17	30.5	1
18	32	1
19	33.5	1
20 - 29	35	2
≥ 30	35	3

B. **Very Low-Income Units.** For housing developments meeting the criteria of Section 19.65.030.B.2, the density bonus shall be calculated as follows:

Percentage Very Low-Income Units	Percentage Density Bonus	Incentives/concessions
5	20	1
6	22.5	1
7	25	1
8	27.5	1
9	30	1
10	32.5	2
11 - 14	35	2
≥ 15	35	3

C. **Senior Housing.** For housing developments meeting the criteria of Section 19.65.030.B.3, the density bonus shall be 20 percent of the number of senior housing units.

D. **Moderate Income Units.** For housing developments meeting the criteria of Section 19.65.030.B.4, the density bonus shall be calculated as follows:

Percentage Moderate Income Units	Percentage Density Bonus	Incentives/concessions
10	5	1
11	6	1
12	7	1

13	8	1
14	9	1
15	10	1
16	11	1
17	12	1
18	13	1
19	14	1
20	15	2
21	16	2
22	17	2
23	18	2
24	19	2
25	20	2
26	21	2
27	22	2
28	23	2
29	24	2
30	25	3
31	26	3
32	27	3
33	28	3
34	29	3
35	30	3
36	31	3
37	32	3
38	33	3
39	34	3
40	35	3

E. All density calculations resulting in fractional units shall be rounded up to the next whole number. The granting of a density bonus shall not be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary approval.

F. **Land donation.** When an applicant for a tentative subdivision map, parcel map, or other residential development approval donates land to the City in accordance with the state Density Bonus Law, the applicant shall be entitled to a 15-percent increase above the otherwise maximum allowable residential density for the entire development, as follows:

Percentage Very Low Income	Percentage Density Bonus
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

19.65.060. Incentives or Concessions.

A. The applicant shall receive the following number of incentives or concessions:

1. One incentive or concession for projects that include at least 10 percent of the total units for lower income households, at least 5 percent for very low income households, or at least 10 percent for persons and families of moderate income in a common interest development.

2. Two incentives or concessions for projects that include at least 20 percent of the total units for lower income households, at least 10 percent for very low income households, or at least 20 percent for persons and families of moderate income in a common interest development.

3. Three incentives or concessions for projects that include at least 30 percent of the total units for lower income households, at least 15 percent for very low income households, or at least 30 percent for persons and families of moderate income in a common interest development.

B. Such concession shall be specific to the individual project and may include:

1. A modification of development standards pertaining to building height, open space, lot size requirements, street access, off-street parking, landscaping, fencing or other development standards, or off-site improvements;

2. Reduction of development processing fees, not including impacts fees;

3. In the coastal zone, any incentives must be consistent to the maximum extent feasible, and in a manner most protective of coastal resources, with all otherwise applicable certified local coastal program policies and standards. In choosing between incentives, priority shall be given to that incentive most protective of coastal resources so as to avoid any development within or adjacent to wetlands or other environmentally sensitive areas, or any

development within or adjacent to geologic hazard areas, or any development which would result in any significant adverse impacts on coastal access and recreation.

C. An applicant for a density bonus pursuant to Section 19.65.030 may submit to the City a proposal for the specific incentives or concessions that the applicant requests pursuant to this chapter, and may request a meeting with the City. The City shall grant the concession or incentive requested by the applicant unless the City makes a written finding, based upon substantial evidence, of any of the following:

1. The concession or incentive is not required in order to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in the density bonus agreement.

2. The concession or incentive would have a specific adverse impact, as defined in paragraph (2) of subdivision (d) of Government Code Section 65589.5, upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households.

3. The concession or incentive would be contrary to state or federal law.

D. The developer and city staff shall negotiate to determine the incentives which will make the project economically feasible with minimum deviations from established standards and minimal impacts of health, safety and welfare. (Ord. 94-888 § 2, 1994; Ord. 94-884)

19.65.070. Development Standards.

A. "Development standard" includes a site or construction condition, including, but not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open-space requirement, or a parking ratio that applies to a residential development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation.

B. The City may not apply any development standard that will have the effect of physically precluding the construction of a development meeting the criteria of Section 19.65.030.B at the densities or with the concessions or incentives permitted by this chapter. An applicant may submit to the City a proposal for the waiver or reduction of development standards that will have the effect of physically precluding the construction of a development meeting the criteria of Section 19.65.030.B at the densities or with the concessions or incentives permitted under this chapter, and may request a meeting with the City.

C. The City is not required to waive or reduce development standards if the waiver or reduction would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Government Code Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. The City is not required to waive or reduce development standards if such waiver or reduction 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.

D. A proposal for the waiver or reduction of development standards pursuant to this section shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to Section 19.65.060.

E. Upon the request of the developer, the City shall not require a vehicular parking ratio, inclusive of disabled and guest parking, of a development meeting the criteria of Section 19.65.030.B that exceeds the following ratios:

1. Zero to one bedroom: one onsite parking space.
2. Two to three bedrooms: two onsite parking spaces.
3. Four and more bedrooms: two and one-half parking spaces.

F. 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. For purposes of this section, a development may provide "onsite parking" through tandem parking or uncovered parking, but not through on-street parking.

G. This subdivision shall apply to a development that meets the requirements of Section 19.65.030.B but only at the request of the applicant. An applicant may request parking incentives or concessions beyond those provided in this section.

19.65.080. Child care facility.

A. When an applicant proposes to construct a housing development that conforms to the requirements of Section 19.65.030.B and includes a child care facility that will be located on the premises of, as part of, or adjacent to, the project, the City shall grant either of the following:

1. 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.
2. An additional concession or incentive that contributes significantly to the economic feasibility of the construction of the child care facility.

B. The City shall require, as a condition of approving the housing development, that the following occur:

1. The child care facility shall remain in operation for a period of time that is as long as or longer than the period of time during which the density bonus units are required to remain affordable pursuant to subdivision (c).
2. Of the children who attend the child care facility, the children of very low income households, lower income households, or families of moderate income shall equal a percentage that is equal to or greater than the percentage of dwelling units that are required for very low income households, lower income households, or families of moderate income pursuant to subdivision (b).

C. Notwithstanding any requirement of this subdivision, a city, county, or city and county shall not be required to provide a density bonus or concession for a child care facility if it finds, based upon substantial evidence, that the community has adequate child care facilities.

D. "Child care facility," as used in this section, means a facility installed, operated, and maintained for the nonresidential care of children as defined under applicable state licensing requirements for the facility other than a family day care home, but including and not limited to, infant centers, preschools, extended day care facilities, and school age child care centers.

E. "Density bonus" as used in this section means a floor area ratio bonus over the otherwise maximum allowable density permitted under the applicable zoning ordinance and land use elements of the general plan of the City of:

1. A maximum of five square feet of floor area for each one square foot of floor area contained in the child care facility for existing structures.

2. A maximum of 10 square feet of floor area for each one square foot of floor area contained in the child care facility for new structures.

3. For purposes of calculating the density bonus under this section, both indoor and outdoor square footage requirements for the child care facility as set forth in applicable state child care licensing requirements shall be included in the floor area of the child care facility.

F. "Developer" means the owner or other person, including a lessee, having the right under the applicable zoning ordinance of the City to make an application for development approvals for the development or redevelopment of a commercial project.

G. "Floor area" means as to a commercial project, the floor area as calculated under the applicable zoning ordinance of the City and as to a child care facility, the total area contained within the exterior walls of the facility and all outdoor areas devoted to the use of the facility in accordance with applicable state child care licensing requirements.

H. The City may establish a procedure by ordinance to grant a developer of a commercial project, containing at least 50,000 square feet of floor area, a density bonus when that developer has set aside at least 2,000 square feet of floor area and 3,000 outdoor square feet to be used for a child care facility. The granting of a bonus shall not preclude the City from imposing necessary conditions on the project or on the additional square footage. Projects constructed under this section shall conform to height, setback, lot coverage, architectural review, site plan review, fees, charges, and other health, safety, and zoning requirements generally applicable to construction in the zone in which the property is located. A consortium with more than one developer may be permitted to achieve the threshold amount for the available density bonus with each developer's density bonus equal to the percentage participation of the developer. This facility may be located on the project site or may be located offsite as agreed upon by the developer and the City. If the child care facility is not located on the site of the project, the City shall determine whether the location of the child care facility is appropriate and whether it conforms with the intent of this section. The child care facility shall be of a size to comply with all state licensing requirements in order to accommodate at least 40 children.

I. The developer may operate the child care facility itself or may contract with a licensed child care provider to operate the facility. In all cases, the developer shall show ongoing coordination with a local child care resource and referral network or local governmental child care coordinator in order to qualify for the density bonus.

J. If the developer uses space allocated for child care facility purposes, in accordance with Section 19.65.030.B, for purposes other than for a child care facility, an assessment based on the square footage of the project may be levied and collected by the City. The assessment shall be consistent with the market value of the space. If the developer fails to have the space allocated for the child care facility within three years, from the date upon which the first temporary certificate of occupancy is granted, an assessment based on the square footage of the project may be levied and collected by the City in accordance with procedures to be developed by the City. The assessment shall be consistent with the market value of the space. A penalty levied against a consortium of developers shall be charged to each developer in an amount equal to the developer's percentage square feet participation. Funds collected pursuant

to this subdivision shall be deposited by the City into a special account to be used for child care services or child care facilities.

K. Once the child care facility has been established, prior to the closure, change in use, or reduction in the physical size of, the facility, the City shall be required to make a finding that the need for child care is no longer present, or is not present to the same degree as it was at the time the facility was established.

19.65.090. Condominium conversions.

A. When an applicant for approval to convert apartments to a condominium project agrees to provide at least 33 percent of the total units of the proposed condominium project to persons and families of low or moderate income as defined in Section 50093 of the Health and Safety Code, or 15 percent of the total units of the proposed condominium project to lower income households as defined in Section 50079.5 of the Health and Safety Code, and agrees to pay for the reasonably necessary administrative costs incurred by the City pursuant to this section, the City shall either (1) grant a density bonus or (2) provide other incentives of equivalent financial value. The City may place such reasonable conditions on the granting of a density bonus or other incentives of equivalent financial value as it finds appropriate, including, but not limited to, conditions which assure continued affordability of units to subsequent purchasers who are persons and families of low and moderate income or lower income households.

B. For purposes of this section, "density bonus" means an increase in units of 25 percent over the number of apartments, to be provided within the existing structure or structures proposed for conversion.

C. For purposes of this section, "other incentives of equivalent financial value" shall not be construed to require the City to provide cash transfer payments or other monetary compensation but may include the reduction or waiver of requirements which the City might otherwise apply as conditions of conversion approval.

D. An applicant for approval to convert apartments to a condominium project may submit to the City a preliminary proposal pursuant to this section prior to the submittal of any formal requests for subdivision map approvals. The City shall, within 90 days of receipt of a written proposal, notify the applicant in writing of the manner in which it will comply with this section. The City shall establish procedures for carrying out this section, which shall include legislative body approval of the means of compliance with this section.

E. Nothing in this section shall be construed to require the City to approve a proposal to convert apartments to condominiums.

F. An applicant shall be ineligible for a density bonus or other incentives under this section if the apartments proposed for conversion constitute a housing development for which a density bonus or other incentives were provided under Government Code Section 65915.

19.65.100. Other Affordable Housing Incentives or Concessions.

Applications for affordable housing projects not qualifying for or requesting a density bonus may be considered for incentives or concessions at the discretion of the City Council. The City may require an affordable housing agreement to ensure the availability of the targeted units for low and moderate income households for a period of 30 years and may execute such other provisions as may be necessary to implement the agreement.

For development within the City's LCP jurisdiction, any housing development approved shall be consistent in a manner most protective of coastal resources, with all of the City's otherwise applicable certified Local Coastal Program policies and standards.

SECTION 2: That Section 19.68.030 is hereby amended to read as follows:

19.68.030. Manufactured homes in Residential zones.

- A. It is the purpose of this section to allow the placement of manufactured homes in the R-1-6000, R-1-3800, R-3000-D, R-3000, R-2000, and R-1500 zones.
- B. Eligibility. A manufactured home shall not be eligible:
 - 1. If more than ten years have elapsed between the date of manufacture and the date of the application for a permit.
 - 2. If the home is not certified under the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Section 5401, et seq.)
 - 3. If it has been altered in violation of applicable code.
- C. Criteria. The manufactured home shall:
 - 1. Be occupied only as a single-family residential use;
 - 2. Be subject to all provisions of the Zoning Ordinance applicable to residential structures;
 - 3. Be attached to a permanent foundation system in compliance with all applicable building regulations;
 - 4. Have a roof overhang of twelve inches or more. (Ord. 94-884)

SECTION 3: That Chapter 19.04 is hereby amended to include the following definitions:

19.04.318. Employee housing.

Employee housing providing accommodations for six or fewer employees shall be deemed a single-family structure with a residential land use designation pursuant to Health and Safety Code Section 17021.5.(b)

19.04.761. Transitional housing .

"Transitional housing" and "transitional housing development" means buildings configured as rental housing developments, but operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six months pursuant to Health and Safety Code Section 50801(i). Pursuant to Government Code Section 65583(a)(5), transitional housing and supportive housing shall be considered a residential use of property, and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone.

19.04.747. Supportive housing.

"Supportive housing" means housing with no limit on length of stay, that is occupied by the target population, and that is linked to onsite or offsite services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community pursuant to Health and Safety Code Section 50675.14(a)(B)(2). Pursuant to Government Code Section 65583(a)(5), transitional housing and supportive housing shall be considered a residential use of property, and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone.

19.04.702. Single-room occupancy unit.

Single room occupancy" unit or an SRO, means a room used for sleeping purposes that: (1) is occupied as a primary residence, (2) lacks, in the unit itself, either or both a kitchen or bathroom, and (3) is subject to state landlord-tenant law pursuant to chapter 2 (commencing with section 1940) of Title 5 of part 4 of division 3 of the Civil Code.

SECTION 4: That Section 19.67.010 is hereby amended to read as follows:

19.67.010. Definition.

"Senior citizen housing development" means a residential development developed, substantially rehabilitated, or substantially renovated for, senior citizens that has at least 35 dwelling units. Any senior citizen housing development which is required to obtain a public report under Section 11010 of the Business and Professions Code and which submits its application for a public report after July 1, 2001, shall be required to have been issued a public report as a senior citizen housing development under Section 11010.05 of the Business and Professions Code. No housing development constructed prior to January 1, 1985, shall fail to qualify as a senior citizen housing development because it was not originally developed or put to use for occupancy by senior citizens.

SECTION 5: That Section 19.23.010. is hereby amended to read as follows:

19.23.010. Land use table.

	C/MU-1	C/MU-2	C/MU-3	Notes
Residential and Similar Uses				
Single-room occupancy units	C	N	N	

SECTION 6: That Section 19.02.070. is hereby added to read as follows:

19.02.070. Reasonable Accommodation for Persons with Disabilities.

- A. Reasonable accommodation in the land use and zoning context means providing individuals with disabilities or developers of housing for people with disabilities, flexibility in the application of land use and zoning and building regulations, policies, practices and procedures, or even waiving certain requirements, when it is necessary to eliminate barriers to housing opportunities so long as the requested flexibility or waiver would not require a fundamental alteration in the nature of the city's land use and zoning and building regulations, policies, practices, procedures, and the City's certified Local Coastal Program.

- B. An individual with a disability is someone who has a physical or mental impairment that limits one or more major life activities; anyone who is regarded as having such impairment; or anyone with a record of such impairment.
- C. A request for reasonable accommodation may be made by any individual with a disability, his or her representative, or a developer or provider of housing for individuals with disabilities, when the application of a land use, zoning or building regulation, policy, practice or procedure acts as a barrier to fair housing opportunities.
- D. In order to make housing available to an individual with a disability, any eligible person may request a reasonable accommodation in land use, zoning and building regulations, policies, practices and procedures.
- E. Requests for reasonable accommodation shall be in writing and provide the following information:
 - (1) Name and address of the individual(s) requesting reasonable accommodation;
 - (2) Name and address of the property owner(s);
 - (3) Address of the property for which accommodation is requested;
 - (4) Description of the requested accommodation and the regulation(s), policy or procedure for which accommodation is sought; and (5) Reason that the requested accommodation may be necessary for the individual(s) with the disability to use and enjoy the dwelling.
- F. Any information identified by an applicant as confidential shall be retained in a manner so as to respect the privacy rights of the applicant and shall not be made available for public inspection.
- G. A request for reasonable accommodation in regulations, policies, practices and procedures may be filed at any time that the accommodation may be necessary to ensure equal access to housing. A reasonable accommodation does not affect the obligations of an individual or a developer of housing for an individual with disabilities to comply with other applicable regulations not at issue in the requested accommodation.
- H. If an individual needs assistance in making the request for reasonable accommodation, the City will provide assistance to ensure that the process is accessible.
- I. Requests for reasonable accommodation shall be reviewed by the Community Development Director.
- J. The Community Development Director shall issue a written decision on a request for reasonable accommodation within thirty (30) days of the date of the application and may either grant, grant with modifications, or deny a request for reasonable accommodation in accordance with the required findings set forth in paragraph L.
- K. If necessary to reach a determination on the request for reasonable accommodation, the Community Development Director may request further information from the applicant consistent with fair housing laws, specifying in detail the information that is required. In the event that a request for additional information is made, the thirty (30) day period to issue a decision is stayed until the applicant responds to the request.
- L. The written decision to grant, grant with modifications, or deny a request for reasonable accommodation shall be consistent with fair housing laws and based on the following factors:

- (1) Whether the housing, which is the subject of the request for reasonable accommodation, will be used by an individual with disabilities protected under fair housing laws;
 - (2) Whether the requested accommodation is necessary to make housing available to an individual with disabilities protected under the fair housing laws;
 - (3) Whether the requested accommodation would impose an undue financial or administrative burden on the jurisdiction and;
 - (4) Whether the requested accommodation would require a fundamental alteration in the nature of the jurisdiction's land use and zoning or building program and the City's certified Local Coastal Program.
- M. The written decision on the request for reasonable accommodation shall explain in detail the basis of the decision, including the Community Development Director's findings on the criteria set forth in paragraph L. All written decisions shall give notice of the applicant's right to appeal and to request reasonable accommodation in the appeals process as set forth below. The notice of decision shall be sent to the applicant by certified mail.
- N. The written decision of the Community Development Director shall be final unless an applicant appeals it to the City Council.
- O. If the Community Development Director fails to render a written decision on the request for reasonable accommodation within the thirty (30) day time period allotted by paragraph J, the request shall be deemed granted.
- P. While a request for reasonable accommodation is pending, all laws and regulations otherwise applicable to the property that is the subject of the request shall remain in full force and effect.
- Q. Within thirty (30) days of the date of the Community Development Director's written decision, an applicant may appeal an adverse decision. Appeals from the adverse decision shall be made in writing.
- R. If an individual needs assistance in filing an appeal on an adverse decision, the City will provide assistance to ensure that the appeals process is accessible.
- S. All appeals shall contain a statement of the grounds for the appeal. Any information identified by an applicant as confidential shall be retained in a manner so as to respect the privacy rights of the applicant and shall not be made available for public inspection.
- T. Nothing in this procedure shall preclude an aggrieved individual from seeking any other state or federal remedy available.

SECTION TWO: That this ordinance shall only become effectively certified upon the date the Coastal Commission concurs with the Executive Director's report of the City's acceptance of the suggested modifications and upon the Executive Director's determination that the modifications adopted by the City will be consistent with the Commission's certification order.

Appeal Process under the California Code of Civil Procedure (CCP): The time within which judicial review of a City Council decision must be sought is governed by Section 1094.6 of the CCP. A right to appeal a City Council decision is governed by CCP Section 1094.5 and Chapter 1.18 of the Imperial Beach Municipal Code.

PROTEST PROVISION: The 90-day period in which any party may file a protest, pursuant to Government Code Section 66020, of the fees, dedications or exactions imposed on this development project begins on the date of the final decision.

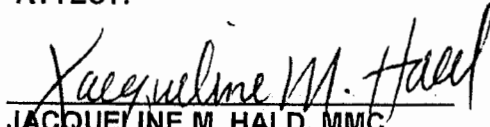
INTRODUCED AND FIRST READ at a regular meeting of the City Council of the City of Imperial Beach, California, on the 17th day of February, 2016; and **THEREAFTER ADOPTED** at a regular meeting of the City Council of the City of Imperial Beach, California, on the 16th day of March, 2016, by the following vote:

AYES:	COUNCILMEMBERS:	BILBRAY, PATTON, BRAGG, SPRIGGS, DEDINA
NOES:	COUNCILMEMBERS:	NONE
ABSENT:	COUNCILMEMBERS:	NONE



SERGE DEDINA, MAYOR

ATTEST:



JACQUELINE M. HALD, MMC
CITY CLERK

APPROVED AS TO FORM:



JENNIFER M. LYON
CITY ATTORNEY