



CITY OF WHEATLAND

CITY COUNCIL MEETING STAFF REPORT

July 27, 2021

SUBJECT: City Council consideration of the Ordinance adding new Chapter 18.77 to and amending Section 18.51.040 of the Wheatland Municipal Code relating to Density Bonuses.

PREPARED BY: Tim Raney, Community Development Director

Recommendation

Staff recommends that the City Council (1) adopt the attached ordinance adding new Chapter 18.77 to and amending Section 18.51.040 of the Wheatland Municipal Code relating to Density Bonuses; and (2) waive the full second reading of the ordinance.

Discussion

On July 13, 2021, the City Council voted to introduce and waive the first reading of the attached ordinance adding new Chapter 18.77 to and amending Section 18.51.040 of the Wheatland Municipal Code to implement Program #1 of the City's Housing Element and create consistency with State law regarding the California Density Bonus Incentive Program (see Attachment 1).

In 2004, the State of California adopted Senate Bill (SB) 1818 which amended Section 65915 of the California Government Code (GC), related to housing. GC 65915 establishes guidelines for the State's residential density bonus incentive program. Additionally, on June 18, 2020, the City of Wheatland received certification from the California Department of Housing and Community Development (HCD) for the adopted City of Wheatland's 5th Cycle (2013-2021) 4-Year Housing Element Update, which included 31 planning programs to create opportunities that do not constrain development of affordable housing and ensure compliance with State law. The adopted City of Wheatland Housing Element Update included Program #1, which states that within one year after HCD certification of the Housing Element, the City shall amend its Zoning Ordinance to provide for affordable housing density bonuses consistent with State law.

The proposed Ordinance amendment is exempt from environmental review pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15305, Minor Alterations in Land Use Limitations.

Fiscal Impact

None

Attachments

1. Draft Ordinance adding new Chapter 18.77 to and amending Section 18.51.040 of the Wheatland Municipal Code.

ORDINANCE NO. 480

**AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF WHEATLAND, CALIFORNIA,
ADDING NEW CHAPTER 18.77 TO AND AMENDING SECTION 18.51.040 OF THE
WHEATLAND MUNICIPAL CODE RELATING TO DENSITY BONUSES**

The City Council of the City of Wheatland does ordain as follows:

SECTION 1. Purpose and Authority. The purpose of this ordinance is to add Chapter 18.77 to the Wheatland Municipal Code pertaining to the City's administration of its density bonus program to improve access to affordable housing for very low-, low- and moderate-income, as well as senior citizen, housing, and to make other related changes to the Wheatland Municipal Code. This ordinance is adopted pursuant to Government Code sections 65850, 65915, and other applicable law.

SECTION 2. Findings.

The City Council finds and determines as follows:

- A. The City of Wheatland administers zoning provisions within the City's boundaries consistent with the City's General Plan as provided for in Title 18 of the Wheatland Municipal Code.
- B. Government Code section 65915, et seq., the State density bonus law, requires the City to adopt an ordinance articulating the City's procedures for and administration of the State density bonus law within the City's boundaries.
- C. On July 13, 2021 the City Council held a duly noticed public meeting concerning the adoption of a proposed ordinance to carry out the State density bonus law ("proposed Density Bonus Ordinance").
- D. The proposed Density Bonus Ordinance is consistent with the policies of the City of Wheatland General Plan and with the Wheatland Municipal Code.
- E. The City Council finds it necessary to pass and implement the proposed Density Bonus Ordinance, and that it will promote and protect the public health, safety, comfort, morals, convenience and general welfare of the residents within the City.

SECTION 3. Amendments.

- A. New Chapter 18.77 shall be added to Title 18 of the Wheatland Municipal Code to read as follows:

Chapter 18.77

DENSITY BONUS

Sections:

- 18.77.010 Purpose.
- 18.77.020 Applicable Zoning Districts.
- 18.77.030 Eligibility.

- 18.77.040 Density Increase and Other Incentives.
- 18.77.050 Application.
- 18.77.060 Retention.

- 18.77.010 Purpose.

This chapter is adopted in accordance with, and to implement the requirements of, section 65915, et seq., of the California Government Code. The purpose of this chapter is to establish a density bonus program to provide density increases for owner-occupied and rental housing developments to encourage the creation of housing affordable to moderate, low, and very low-income households, and to encourage the creation of housing for senior citizens. As used in this chapter, density bonus units are those units designated for senior citizens, or very low-, low-, or moderate-income households as defined in the Health and Safety Code that qualify the housing project for award of a density bonus or other incentives.

- 18.77.020 Applicable zoning districts.

This chapter shall be applicable to all zoning districts that allow residential uses.

- 18.77.030 Eligibility.

All proposed housing developments that qualify under California Government Code section 65915 for a density increase and other incentives, and any qualified land transfer under California Government Code section 65915, shall be eligible to apply for a density bonus (including incentives and/or concessions) consistent with the requirements, provisions and obligations set forth in California Government Code section 65915, et seq. as those requirements may be amended.

- 18.77.040 Density increase and other incentives.

The City of Wheatland shall grant qualifying housing developments and qualifying land transfers a density bonus, the amount of which shall be as specified in California Government Code section 65915, et seq., and incentives or concessions also as described in California Government Code section 65915, et seq., subject to the application requirements as provided for in Section 18.77.050 of the Wheatland Municipal Code.

- 18.77.050 Application.

- A. An application for a density bonus or other concessions or incentives under this chapter for a housing development shall be submitted in writing to the City of Wheatland Community Development Department, to be processed concurrently with all other entitlements of the proposed housing development. The application for a housing development shall contain information sufficient to fully evaluate the request under the requirements of this chapter, and in connection with the project for which the request is made, including, but not limited to, the following:
 - 1. A brief description of the proposed housing development;
 - 2. The total number of housing units proposed in the development project, including unit sizes and number of bedrooms;

3. The total number of units proposed to be granted through the density increase and incentive program over and above the otherwise maximum allowable residential density for the project site;
 4. The total number of units to be made affordable, or reserved for sale or rental, to very low-, low- or moderate-income households, or senior citizens, or other qualifying residents;
 5. The Zoning, General Plan designations and assessors parcel number(s) of the project site as provided for in Title 18 of the Wheatland Municipal Code;
 6. A vicinity map and preliminary site plan, drawn to scale, including building footprints, driveway(s) and parking layout; and
 7. A list of any concession(s) or incentives(s) being requested to facilitate the development of the project, and a detailed description of why the concession(s) or incentive(s) is consistent with the State density bonus law (Government Code section 65915, et seq.).
- B. The application shall be considered by the Planning Commission and the City Council at the same time the relevant body is considering the project for which the request is being made consistent with Government Code section 65950, et seq. The request shall be approved if the applicant complies with, and the application is consistent with, the provisions of California Government Code section 65915 et seq., unless the City finds any of the following:
1. The concession or incentive does not result in identifiable and actual cost reductions 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;
 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-income and moderate-income households; or
 3. The concession or incentive would be contrary to State or federal law.
- C. No later than 30 days after receipt of the application, the City shall notify the applicant for a density bonus in writing whether it deems the application complete consistent with these provisions and Government Code section 65915, et seq.

18.77.060 Retention.

Consistent with the provisions of California Government Code section 65915 et seq., prior to a density increase or other incentives being approved for a project, the applicant shall be required to provide appropriate assurances to the City of Wheatland regarding the applicant's continued compliance with, and the continued availability of the density bonus units for the statutorily-prescribed periods in, Government Code section 65915, et seq.

18.77.070 Agreements for affordable housing.

Prior to the issuance of construction permits for any project incorporating a density bonus or other concession or incentive as provided in this chapter, the City and the project owner(s) shall enter into an agreement in a form acceptable to the City Attorney, to be recorded in the office of the County Recorder. The agreement shall be considered by the Wheatland Planning Commission and the City Council. The agreement shall specify mechanisms or procedures to assure the continued affordability and availability of the specified number of dwelling units to very low-, lower-, and moderate-income households, and/or qualifying seniors, and/or qualifying transitional foster youth, disabled veterans, or homeless persons. The agreement shall also set forth those items required by this Chapter. The agreement shall run with the land and shall be binding upon all heirs, successors or assigns of the project or property owner, and shall ensure affordability for the maximum period established by State law.

18.77.080 Administrative Fees.

The City shall charge an administrative fee to applicants to cover the City's cost to review all materials submitted in accordance with this Chapter and for on-going enforcement of this Chapter. The amount of the administrative fee shall be established from time to time by City Council resolution. Fees will be charged for staff time, consultant costs, legal fees, and materials associated with: review and approval of applications for the development; project marketing and lease-up; long-term compliance of the applicant, and successors-in-interest to the applicant, with respect to the maintenance of the affordable housing units as such.

B. Subsection (F) of Section 18.51.040 of the Wheatland Municipal Code is amended to read as follows:

F. Clustering of residential units and other land uses is encouraged; however, the total number of housing units and/or non-residential square footage shall not exceed what is allowed for the entire site under the General Plan or any applicable specific plan, except as may be authorized under the provisions of Chapter 18.77 of the Wheatland Municipal Code relating to its density bonus program.

SECTION 4. Exemption from CEQA. The proposed Density Bonus Ordinance is exempt from environmental review pursuant to the California Environmental Quality Act (CEQA) Guidelines section 15305, Minor Alterations in Land Use Limitations.

SECTION 5. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is held by a court of competent jurisdiction to be invalid or unconstitutional, that portion shall be deemed a separate, distinct and independent provision, and the holding shall not affect the validity of the remaining portions of this ordinance.

SECTION 6. Effective Date. This ordinance shall take effect and be enforced thirty (30) days from and after the date of its adoption.

SECTION 7 Posting. Within fifteen (15) days from the date of passage of this ordinance, the City Clerk shall post a copy of it in at least three public places in the City.

* * * * *

I **HEREBY CERTIFY** that the foregoing ordinance was introduced and adopted at a regular meeting of the City Council of the City of Wheatland, held on the 13th of July, 2021, and passed and adopted at a regular meeting thereof, held on the 27th of July, 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

Mayor of the City of Wheatland

City Clerk of the City of Wheatland

DRAFT