

**ORDINANCE NO. 584**

**AN ORDINANCE OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY, CALIFORNIA  
AMENDING TITLE 17 OF THE MORRO BAY MUNICIPAL CODE  
TO COMPLY WITH REVISIONS TO STATE HOUSING LAW AND  
THE HOUSING ELEMENT OF THE GENERAL PLAN**

**WHEREAS**, it is the purpose of Title 17 of the Morro Bay Municipal Code (Zoning Ordinance) to establish a precise and detailed plan for the use of land in the City of Morro Bay based on the Local Coastal Plan and General Plan; and

**WHEREAS**, it is important to have clear, consistent, and easy to use and interpret regulations within the Zoning Ordinance; and

**WHEREAS**, Government Code Section 65583(c)(1) requires that sites with appropriate zoning and development standards and services and facilities be identified as needed to facilitate and encourage the development of a variety of types of housing, including housing for agricultural employees, supportive housing, single-room occupancies, emergency shelters, and transitional housing; and

**WHEREAS**, Sections 17021.5 and 17021.6 the State Health and Safety Code and the Employee Housing Act set standards for the construction, maintenance, use and occupancy of living quarters called "employee housing", including but not limited to farmworker housing; and

**WHEREAS**, Government Code Section 65583(a)(4) requires the identification of a zone or zones where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit, and that the identified zone or zones shall include sufficient capacity to accommodate the need for emergency shelter identified in paragraph (7) of Government Code Section 65583(a), except that each local government shall identify a zone or zones that can accommodate at least one year-round emergency shelter; and

**WHEREAS**, Government Code Section 65583(a)(5) requires an analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing that demonstrates local efforts to remove governmental constraints that hinder the locality from meeting the need for housing for persons with disabilities, supportive housing, and transitional housing, and that 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; and

**WHEREAS**, the Federal Fair Housing Act and the California Fair Employment and Housing Act require that a reasonable accommodation procedure be established to ensure a fair and efficient process for persons with disabilities to make necessary accessibility adjustments to their homes, which will allow housing retrofits for disabled persons without discretionary review; and

**WHEREAS**, the adopted 2009-2014 Housing Element of the Morro Bay General Plan requires consideration of amendments to the text of the Zoning Code to increase housing supply and obtain densities closer to those envisioned by zoning policies by prohibiting single-family homes in the R-3 and R-4 zoning districts; and

**WHEREAS**, Government Code Section 65915 requirements for the adoption of a density bonus program to facilitate and encourage the maximum build out of available sites has been modified in 2005 (SB 1818); and

**WHEREAS**, the proposed amendments to the text of the Zoning Ordinance are intended to implement programs identified in the adopted 2009-2014 Housing Element of the Morro Bay General Plan, which that will bring the Zoning Ordinance into compliance with the above cited Government Code sections; and

**WHEREAS**, the proposed amendments to the text of the Zoning Ordinance are exempt from environmental review pursuant to Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines under the general rule that CEQA only applies to projects which have the potential for causing a significant effect on the environment; and

**WHEREAS**, environmental review was conducted for the 2009-2014 Housing Element (SCH#2009081040) and the proposed amendments are to implement policies contained in the Housing Element which do not increase density, nor cause additional development impacts associated with the proposed amendment beyond that which was included in the environmental review; and

**WHEREAS**, the Planning Commission of the City of Morro Bay, on January 15, 2014 after a duly noticed PUBLIC HEARING, did forward a recommendation, by adoption of Planning Commission Resolution No. 01-14 that the City Council amend Title 17 (Zoning Ordinance) to bring the Zoning Ordinance into compliance with the above cited Government Code sections and more specifically approves Zoning Text Amendment #A00-018 and forwards a favorable recommendation to the City Council to approve said Zoning Text Amendment "Amending Title 17 of the Morro Bay Municipal Code implementing policies of the Morro Bay 2009 Housing Element" by adopting Ordinance Number 584; and

**WHEREAS**, the City Council held a duly advertised public hearing on January 28, 2014 and on February 25, 2014 to consider adoption of the proposed amendments to the Zoning Ordinance; and

**WHEREAS**, following the PUBLIC HEARING, and upon consideration of the testimony of all persons, both written and oral, the City Council accepted the Planning Commission recommendation and approved the amendment.

**NOW, THEREFORE**, the City Council of the City of Morro Bay finds as follows:

1. That the above recitations are true and correct and constitute the findings of the Council in this matter.
2. That the proposed Zoning Ordinance Amendments will not be injurious or detrimental to the health, safety, comfort, general welfare or well-being of the persons residing or working in the neighborhood.
3. That the proposed amendments are in general conformance with the City General Plan and Local Coastal Plan.
4. That the Local Coastal Program Implementation Program (Zoning Ordinance) Amendments are in compliance with the intent, objectives, and all applicable policies and provisions of the California Coastal Act; and
5. Pursuant to Morro Bay Municipal Code Section 17.64.080 no amendment to Title 17 shall be legally effective in the coastal zone until the amendment is certified by the Coastal Commission.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MORRO BAY, CALIFORNIA DOES HEREBY ORDAIN AS FOLLOWS:**

Title 17 of the Morro Bay Municipal Code is amended to read in applicable part as follows:

**Section 1. Chapter 17.12 –Definitions**, is hereby amended to add or modify the following:

- A. Section 17.12.267 - Emergency Shelter. “Emergency shelter” means housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because of an inability to pay.
- B. Section 17.12.268 – Employee Housing. “Employee housing,” includes but is not limited to farmworker housing. Employee housing for 6 or fewer workers shall be deemed to be a single-family structure with a residential land use, and shall be treated the same as a single family dwelling of the same type in the same zone. The permitted occupancy in employee housing in a zone allowing agricultural uses shall include agricultural employees who do not work on the property where the employee housing is located, and may consist of no more than 36 beds in a group quarters or 12 units or spaces designed for use by a single family or household on land zoned for agricultural uses. Such employee housing shall be considered to be an activity that in no way differs from an agricultural use.
- C. Section ~~17.12.267~~ 17.12.269 – Environmentally sensitive habitat.
- D. Section ~~17.12.268~~ 17.12.270 – Equestrian boarding.
- E. Section ~~17.12.269~~ 17.12.271 – Estuary.
- F. Section ~~17.12.270~~ 17.12.272 – Family.
- G. Section 17.12.432 – Low, very low, extremely low, and moderate household income. “Low, very low, and moderate household income” means, for the

purpose of evaluating housing affordability, housing need, and eligibility for housing assistance, State Income Limits as defined by guidelines adopted annually by the California Department of Housing and Community Development (HCD) for San Luis Obispo County.

- H. Section 17.12.433 – Low, very-low, extremely low, and moderate income housing. "Low, very-low, extremely-low, and moderate income housing" means housing for which the rent or monthly mortgage payment, together with taxes and basic utilities, does not exceed 30% of total household income, the current fair market rent for existing housing standards applicable to San Luis Obispo County as established for Section 8, Housing Assistance Payments Programs by the United States Department of Housing and Urban Development.
- I. Section 17.12.504 – Residential Density. "Residential density" is the maximum number of dwelling units allowed per acre by the Local Coastal Program for each zoning district. All residential development, including but not limited to single-family, multi-family, residential care facilities, supportive and transitional housing is subject to the residential density established by the parcel's zoning district and cannot exceed the LCP's density restrictions, except as provided for elsewhere in this Chapter.
- J. Section 17.12.581 – Single-Room Occupancy (SRO). "SRO" means a multi-unit housing project for single persons typically consisting of single rooms and shared bathrooms, and may include a shared common kitchen and activity area. SROs may be restricted to seniors or be available to persons of all ages.
- K. Section 17.12.626 – Supportive Housing. "Supportive housing" means housing with no limit on length of stay, that is occupied by a target population, and that is linked to an onsite or offsite service that assists 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.
- L. Section 17.12.627 –Target Population. "Target population" means persons with low incomes who have one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health condition, or individuals eligible for services provided pursuant to the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code) and may include, among other populations, adults, emancipated minors, families with children, elderly persons, young adults aging out of the foster care system, individuals exiting from institutional settings, veterans, and homeless people.
- M. Section 17.12.640 – Transitional Housing. "Transitional housing" means buildings configured as rental housing developments, but operated under program requirements that mandate the termination of assistance and recirculation of the

assisted unit to another eligible program recipient at a predetermined future point in time that shall be no less than six months from the beginning of the assistance.

**Section 2. Section 17.24.020 – Agriculture (AG) District**, is hereby amended as follows:

- A. Section 17.24.020.A Purpose. The purpose of the Agriculture (AG) district is to provide for the continuation of agricultural uses in suitable areas and for supplemental commercial uses which may be necessary to support such continued agricultural activities. New development in this district shall also be sited and designed to protect and enhance scenic resources associated with the rural character of agricultural lands.

It is the intent of the city that it shall maintain the maximum amount of prime agricultural land in agricultural production to assure the protection of the area's agricultural economy, and to facilitate and encourage the provision of decent, affordable housing for farm workers by not requiring a conditional use permit, zoning variance, or other zoning clearance for farmworker housing that is not required of any other agricultural activity in the Agriculture (AG) zone, except that a Coastal Development Permit is required consistent with the Local Coastal Program. In addition, it is the city's intent that all nonprime agricultural land within the city suitable for agricultural use shall not be converted to nonagricultural uses unless:

1. Continued or renewed agricultural use is not feasible; or
2. Such conversion would preserve prime agricultural land or concentrate development consistent with Public Resources Code, Section 30250.

**Section 3. Section 17.48 – General Regulations, Conditions and Exceptions**, is hereby amended to add or modify the following:

- A. Section 17.48.120 Porch, landing place or stairway projections is hereby amended to expressly add handicapped ramps to those items that may project into interior side, rear, front yard or street side yards, as established by this provision.
- B. Section 17.48.360– Emergency Shelter. It is the purpose of this section to facilitate and encourage the provision of emergency shelter for homeless persons and households by allowing permanent year-round emergency shelters without a conditional use permit or other discretionary action in the C-1 (Central Business) zone, subject only to the same development standards that apply to the other permitted uses in these zones, except for the following requirements unique to emergency shelters, as authorized by Government Code Section 65583(a)(4):
1. The maximum number of beds or persons to be served nightly by an emergency shelter shall be 35.
  2. Off-street parking shall be based upon demonstrated need, provided that parking for an emergency shelter shall not be more than that required for other commercial or industrial uses permitted in the Central Business (C-1) zone.
  3. Appropriately sized and located exterior and interior on-site waiting and intake areas shall be provided.
  4. Appropriate exterior lighting shall be provided.

5. On-site management shall be provided.
  6. Security shall be provided during the hours that the emergency shelter is in operation.
  7. The maximum length of stay by a homeless person in an emergency shelter shall be six (6) months.
  8. An emergency shelter shall not be located within 300 feet of another emergency shelter.
  9. No individual or household shall be denied emergency shelter because of an inability to pay.
- C. Section 17.48.370 – Single-Room Occupancy (SRO). It is the intent of this section to facilitate and encourage the provision of affordable shelter for low-income persons with special housing needs by allowing SRO housing without a conditional use permit or other discretionary action in the Central Business (C-1) zone, and with a minor use permit in the Mixed Commercial/Residential (MCR) zone, subject only to the same development standards that apply to the other permitted uses in these zones, except for the following requirements unique to SROs:
1. Occupancy. An SRO unit shall be occupied by a single person. Occupancy of SRO units may be restricted to seniors or be available to persons of all ages.
  2. Special Development. Units in an SRO housing development shall consist of a single room and may have a private or shared bathroom. A shared common kitchen and activity area may also be provided.
  3. Management Standard. On-site management shall be provided.
- D. Section 17.48.400 – Reasonable Accommodation Procedure. This section provides a procedure to request reasonable accommodation for persons with disabilities seeking equal access to housing under the Federal Fair Housing Act and the California Fair Employment and Housing Act (the Acts) in the application of zoning laws and other land use regulations, policies and procedures.
1. Applicability.
    - A. A request for reasonable accommodation may be made by any person with a disability, their representative or any entity, when the application of a requirement of this Zoning Ordinance or other city requirement, policy or practice acts as a barrier to fair housing opportunities. A person with a disability is a person who has a physical or developmental impairment that limits or substantially limits one or more major life activities, anyone who is regarded as having such impairment or anyone who has a record of such impairment. This chapter is intended to apply to those persons who are defined as disabled under the Acts.
    - B. A request for reasonable accommodation may include a modification or exception to the rules, standards and practices for the siting,

- development and use of housing or housing- related facilities that would eliminate regulatory barriers and provide a person with a disability equal opportunity to housing of their choice.
- C. A reasonable accommodation is granted to the household that needs the accommodation and does not apply to successors in interest to the property.
  - D. A reasonable accommodation may be granted in compliance with this chapter without the need for the approval of a variance.
  - E. Requests for reasonable accommodation shall be as described in the following section.
2. Application Procedure.
- A. Application. Requests for reasonable accommodation shall be submitted in the form of a letter to the Public Services Director and shall contain the following information:
    - 1. The applicant's name, address and telephone number;
    - 2. Address of the property for which the request is being made;
    - 3. The current actual use of the property;
    - 4. The basis for the claim that the individual is considered disabled under the Acts;
    - 5. The Zoning Ordinance provision, regulation or policy from which reasonable accommodation is being requested; and
    - 6. Why the reasonable accommodation is necessary to make the specific property accessible to the individual.
  - B. Review with Other Land Use Applications. If the project for which the request for reasonable accommodation is being made also requires some other discretionary approval (e.g., conditional use permit, coastal development permit, etc.), then the applicant shall file the application for discretionary approval together with the information required by Subsection A above for concurrent review.
3. Review Authority.
- A. Public Services Director. Requests for reasonable accommodation shall be reviewed by the Public Services Director, or his/her designee if no approval is sought other than the request for reasonable accommodation. The written determination to grant, grant with modifications, or deny the request for reasonable accommodation shall be made in accordance with the Findings and Decision as established below.
  - B. Other Review Authority. Requests for reasonable accommodation submitted for concurrent review with another discretionary land use application shall be reviewed by the authority responsible for reviewing the discretionary land use application. The written determination to grant, grant with modifications, or deny the request for reasonable accommodation shall be made in accordance with the Findings and Decision as established below.

4. Findings and Decision. The written decision to grant or deny a request for reasonable accommodation will be consistent with the Acts and shall be based on consideration of the following factors:
  - A. Whether the housing, which is the subject of the request, will be used by an individual disabled under the Acts;
  - B. Whether the request for reasonable accommodation is necessary to make specific housing available to an individual with a disability under the Acts;
  - C. Whether the requested reasonable accommodation would impose an undue financial or administrative burden on the City;
  - D. Whether the requested reasonable accommodation would require a fundamental alteration in the nature of a City program or law, including but not limited to land use, zoning, or the Local Coastal Program;
  - E. Potential impact on surrounding uses;
  - F. Physical attributes of the property and structures; and
  - G. Alternative reasonable accommodations that may provide an equivalent level of benefit.
  
5. Conditions of Approval. In granting a request for reasonable accommodation, the reviewing authority may impose any conditions of approval deemed reasonable and necessary to ensure that the reasonable accommodation would comply with the findings required herein. The conditions shall also state whether the accommodation granted shall be rescinded in the event that the person for whom the accommodation was requested no longer resides on the property.

**Section 4. Section 17.24 - Primary Districts, is hereby amended as follows:**

- A. Section 17.24 – Uses permitted in each zone are amended to allow the following uses to be principally permitted in the zones indicated:

ZONES		USE TYPE
Symbol	Zone Name	
AG	Agriculture	Employee Housing (max 36 beds in a group quarters or 12 units or spaces) <i>with approval of a CDP where applicable</i>
		Supportive Housing and Transitional Housing <i>within a residential structure that is consistent with the LCP, with approval of a CDP where applicable</i>
RA	Suburban Residential	Employee Housing (max 36 beds in a group quarters or 12 units or spaces)
		Supportive Housing and Transitional Housing
R-1	Single-family residential	Employee Housing (for 6 or fewer workers)

		Supportive Housing and Transitional Housing
R-2	Duplex residential	Employee Housing (for 6 or fewer workers)
		Supportive Housing and Transitional Housing
R-3	Multiple-family residential	Employee Housing (for 6 or fewer workers)
		Supportive Housing and Transitional Housing
R-4	Multifamily residential-hotel-professional	Employee Housing (for 6 or fewer workers)
		Supportive Housing and Transitional Housing
CRR	Coastal resource residential	Supportive Housing and Transitional Housing
		Employee Housing (for 6 or fewer workers)
C-1	Central business	Supportive Housing and Transitional Housing
		Single Room Occupancy (SRO)
		Emergency Shelter
		Employee Housing (for 6 or fewer workers)

B. Section 17.24 – Uses permitted in each zone are amended to allow the following uses to be permitted with a Minor Use Permit in the zones indicated:

ZONES		USE TYPES
Symbol	Zone Name	
MCR	Mixed Commercial/Residential	Employee Housing (for 6 or fewer workers)
		Single Room Occupancy (SRO)
		Supportive Housing and Transitional Housing
R-3	Multiple-family residential	Single-family residential, where the sites' characteristics, such as size or topography, would preclude multi-family development.
		All principally permitted uses in the R-1 and R-2 districts, where the sites' characteristics, such as size or topography, would preclude multi-family development.
R-4	Multifamily residential-hotel-professional	Single-family residential, where the sites' characteristics, such as size or topography, would preclude multi-family development.

		All principally permitted uses listed in the R-1 and R-2 districts, where the sites' characteristics, such as size or topography, would preclude multi-family development.
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**Section 5. Section 17.50 – Affordable Housing, Density Bonuses and Incentives**, is hereby revoked in its entirety and replaced as follows:

Sections:

17.50.010 - Purpose.

17.50.020 - General affordable housing requirements.

17.50.030 - In-lieu fees for affordable housing.

17.50.040 - Density bonuses and incentives.

17.50.050 – Assurance of continued availability.

17.50.060 – Consistency with State Law.

Section 17.50.010 - Purpose. The purpose of this chapter is to:

- A. Meet the requirements to provide affordable housing contained in Government Code Sections 65580-65589.8 through inclusionary housing; and
- B. Promote and facilitate the provisions of very low, low, and moderate-income housing consistent with the provisions of Government Code Sections 65915-65918 and the Housing Element of the General Plan.

Section 17.50.020 – General affordable housing requirements.

- A. Pursuant to the requirements of Government Code Sections 65580-65589, all new residential developments of five or more for-sale units shall provide a minimum of one inclusionary unit or ten percent of the total number of units, whichever is greater, to be affordable to families with incomes in the very low-, low-, or moderate-income ranges, depending on the needs of the City at the time of approval. The lower-income units may be either for rent or for sale, but shall remain affordable for at least 30 years, or such other term approved by the City, consistent with state law.
- B. In accordance with Government Code Section 65590, the City shall require the developer to provide affordable housing on-site where feasible. If the City determines that this is not feasible based on a detailed economic analysis prepared by a City-contracted consultant at the cost of the applicant, the City shall require the developer to provide such housing at another location in Morro Bay. If the City determines that it is not feasible for the developer to provide such affordable housing off-site, the developer shall pay a fee in lieu of providing such housing. Said fee shall be as prescribed in 17.50.030.
- C. For the purposes of calculating the number of affordable inclusionary units required by this Section, any additional units authorized as a density bonus will not be counted in determining the required number of inclusionary units.

Section 17.50.030 – In-lieu fees for affordable housing.

In cases where the provisions for the required affordable housing are not being met on-site or off-site, the applicant may contribute in-lieu fees. Said fees shall be paid prior to issuance of a building permit or final tract map. Fees shall be established on a project basis using the following method:

Construction Cost X % of Fee based on Project Size, where construction costs include all expenses related to the development of housing units, including land, construction, on- and off-site infrastructure, and associated soft costs.

<u>Project Size</u>	<u>% of each 1 unit cost or fraction there of</u>
<u>8 Units</u>	<u>10%</u>
<u>9 Units</u>	<u>15%</u>
<u>10 Units</u>	<u>20%</u>
<u>11 Units</u>	<u>30%</u>
<u>12 Units</u>	<u>40%</u>
<u>13 Units</u>	<u>50%</u>
<u>14 Units</u>	<u>60%</u>
<u>15 Units</u>	<u>70%</u>
<u>16 Units</u>	<u>80%</u>
<u>17 Units</u>	<u>90%</u>
<u>18 Units</u>	<u>100%</u>

- A. Fees accepted for affordable housing shall be used by the city to construct or assist in the construction of housing for rent or sale to very low, low and moderate income families or to purchase land for the purpose of affordable housing or to assist very low, low and moderate income families to afford adequate housing or for other measures to provide housing for low and moderate income families. The city may, at its option, transfer in-lieu fees to another public agency as a nonprofit housing provider for the purpose of providing affordable housing in the city of Morro Bay.

Section 17.50.040 – Density bonuses and incentives.

- A. Applicability. Pursuant to the requirements of Government Code Sections 65915-65918, the provisions of this Section apply to the construction of five or more housing units that satisfy one or more of the following criteria:
1. At least 10% of the units are designated for low-income households;
  2. At least 5% of the units are designated for very low-income households;
  3. At least 10% of the units are designated for moderate-income households, provided that all units in the development are offered to the public for purchase;

4. 100% of the units are designated for seniors citizens as defined in Section 51.3 and 51.12 of the Civil Code or mobile home park that limits residency based on age requirements for housing for older persons pursuant to Government Code Section 798.76 or 799.5;
  5. Donation of land to the city consisting of at least one acre, or of sufficient developable acreage and zoning classification to permit construction of at least 40 units, and not less than 10% of the residential units in the proposed development, that are affordable to very-low income households.
- B. Calculating the density bonus. A density bonus shall be calculated on a sliding scale based upon the amount by which the percentage of affordable housing units exceeds the minimum number of affordable units required to qualify for a density bonus established in Section 17.50.020. The density bonus shall be calculated as follows:
1. A 20% density bonus, increasing by an additional 1.5% for each additional 1% increase in low-income units above the initial 10% threshold, per Section 17.50.040A1, above.
  2. A 20% density bonus, increasing by an additional 2.5% for each additional 1% increase in very low-income units above the initial 5% threshold , per Section 17.50.040A2, above.
  3. A 20% density bonus for senior citizen housing developments pursuant Government Code Section 65915(g)(3).
  4. A 5% density bonus, increasing by an additional 1% for each additional 1% increase in moderate-income units above the initial 10% threshold, per Section 17.50.040A4, above.
  5. When an applicant proposes to construct a housing development that is eligible for a density bonus under Section 17.50.030 A and includes a childcare facility that will be located on the premises of, or adjacent to, the housing development, the city shall grant either:
    - a. An additional density bonus that is an amount of square feet of residential space that is equal to or greater than the square footage of the childcare facility; or
    - b. An additional concession or incentive that contributes significantly to the economic feasibility of the construction of the childcare facility.
  6. Maximum density bonus. The maximum density bonus authorized by this section, Section 17.50.030A, and Section 17.50.030 B, collectively, is 35% when a project provides either 11% very low-income units, 20% low-income units, or 40% moderate-income units. All density bonus calculations resulting in fractional units shall be rounded up to the next whole number of housing units.
- C. Developer incentives.
1. Restrictions. When an applicant seeks a density bonus as prescribed by Government Code Section 65915, the City will grant the number of developer

incentives as required by Section 17.50.040C2, below, unless it makes any of the following findings:

- a. The developer incentives are not required in order to provide affordable housing, as defined in Section 50052.3 of the Health and Safety Code, or for rents for the targeted units to be set as specified in Government Code Section 65915(c).
  - b. The developer incentives would have a specific adverse impact, as defined in paragraph (2) of Subdivision (d) of Section 65589.5, upon public health and safety or the physical environment or an 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.
  - c. The developer incentives would be contrary to State or Federal law.
2. Number of developer incentives. A developer eligible to receive a density bonus shall receive the following number of concessions or incentives, in addition to a density bonus:
- a. One concession or incentive for projects that provide either 10% of the units affordable to low-income households, 5% of the units affordable to very low-income households, 10% of the units affordable to moderate-income households, or childcare facilities.
  - b. Two concessions or incentives for projects that provide either 20% of the units affordable to low-income households, at least 10% of the units affordable to very low-income households, or 20% of the units affordable to moderate-income households.
  - c. Three concessions or incentives for projects that provide either 30% of the units affordable to low-income households, at least 15% of the units affordable to very low-income households, or 30% of the units affordable to moderate-income households.
3. Parking. Upon request of a developer eligible to receive a density bonus, the city shall grant the following parking standards, inclusive of handicapped and guest parking, for the entire project as required by Government Code Section 65915(p)(1):
- a. Zero to 1-bedroom units – 1 on-site parking space per unit
  - b. Two or more-bedroom units – 2 on-site parking spaces per unit
4. Developer incentives defined. For the purposes of this Section, concession or incentive means any of the following:
- a. Reduced site development standards or modified zoning code or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, including, but not limited to, a reduction in setback and square footage requirements and the ratio of

- vehicular parking spaces that would otherwise be required that results in identifiable, financially sufficient, and actual cost reductions.
- b. Approval of mixed-use zoning if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if the commercial, office, industrial, or other land uses are compatible with the housing project.
  - c. A density bonus greater than the amount required by this section.
  - d. Deferred or waived planning, plan check, construction permit, and/or development impact fees, in accordance with any fee deferral and waiver process and policies adopted by the city.
  - e. Direct financial aid in the form of a loan or grant to subsidize off-site improvements, land or construction costs.
  - f. Other regulatory developer incentives proposed by the developer or the City that result in identifiable, financially sufficient, and actual cost reductions.

5. Waivers and modifications of development standards.

- a. Proposal. In accordance with Government Code Section 65915(e), an applicant may propose a waiver or modification of development standards if they would physically preclude the construction of a development meeting the criteria for Applicability, at the densities or with the developer incentives permitted by this Section.

A proposal for the waiver or reduction of development standards pursuant to this subdivision shall neither reduce nor increase the number of developer incentives to which the applicant is entitled pursuant to Section 17.50.040D, above.

- b. Grounds for denial. In accordance with Government Code Section 65915(e), the City Council, or the Coastal Commission on appeal, may deny an applicant's request to waive or modify the City's development standards in any of the following circumstances:
  - 1. The application does not conform with the requirements of this Section, Government Code Section 65915-65918, or Coastal Act Section 30604(f).
  - 2. The applicant fails to demonstrate that the City's development standards physically preclude the utilization of a density bonus on a specific site.
  - 3. The waiver or reduction would have a specific, adverse impact, as defined in Government Code Section 65589.5(d)(2), upon health, safety, or the physical environment, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact.
  - 4. The waiver or reduction would have an adverse impact on any real property that is listed in the California Register of Historical Resources.
  - 5. The waiver or reduction would be contrary to State or Federal law.

6. If in the coastal zone, the project is found to be inconsistent with the Local Coastal Program (including but not limited to sensitive habitat, agriculture, public view shed, public services, public recreational access and open space protections), with the exception of the density bonus.

D. Application and Evaluation.

1. All applications. All applications for a density bonus, developer incentive, or waiver or modification of development standards must include the following information:
  - a. The total number of base units and affordable housing units;
  - b. The specific developer incentive(s) sought, if any, and documentation regarding the necessity of the incentive in order to provide affordable housing costs or rents;
  - c. The specific waiver or modification to development standard(s), if any, and documentation regarding the necessity of the waiver or modification, including documentation demonstrating that the City's development standards physically preclude the utilization of a density bonus.
2. Land Donations. If requesting a density bonus based on land donation in accordance with Government Code Section 65915(g), in addition to the above listed information, the application must:
  - a. Demonstrate the developable acreage and zoning classification is compliant with eligibility criteria of 17.50.030A, and that the site is, or will be served by adequate public facilities and infrastructure;
  - b. Verify that all permits and approvals, other than building permits, necessary for the development of the very low-income housing units have been secured prior to the date of approval of the final subdivision map, parcel map, or other development permits;
  - c. Verify that the developer can donate and transfer land no later than the date of approval of the final subdivision map, parcel map, or residential development application; and
  - d. The land will be 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 affordable housing developer.
3. Childcare Facilities. If requesting a density bonus based on the provision of a child day care facility in accordance with Government Code Section 65915 (h), in addition to the above listed information, the application must:
  - a. Provide the location of the proposed child day care facility and the proposed operator;
  - b. Agree to operate the child day care facility 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;

- c. Agree to have contracted with a child day care facility operator for operation of the child day care facility before the first building permit is issued;
- d. Agree that the child day care facility will be in operation when the first certificate of occupancy is issued; and
- e. Of the children who attend the childcare facility, the children of very low-income households, low-income households and moderate-income households shall equal a percentage that is equal to or greater than the percentage of affordable units in the housing development that are required for very low-, low- or moderate-income households.

The city shall not be required to provide a density bonus or concession or incentive for a child care facility if it finds, based upon substantial evidence, that the community has adequate child care facilities.

Section 17.50.050 – Assurance of continued availability.

- A. Term of Availability. Where affordable housing units have been provided per the requirements of 17.50.020, or where a density bonus, incentives, or waivers of development standards has been made pursuant to this chapter, the developer shall assure both of the following:
  - 1. Continued availability of affordable units for a minimum of thirty years.
  - 2. Project phasing, including timing of completion, and rental or sale of affordable housing units shall occur concurrently with non-restricted units.
  
- B. Long Term Affordability. A developer of affordable units shall enter into an affordable housing agreement with the city prior to the recordation of the final map, or the issuance of a grading permit or a building permit where approval of a map is not requested. The agreement shall be recorded against the parcel(s) designated for construction of the affordable units. The agreement shall run with the land and shall be binding upon the successor(s) in interest. At a minimum, the agreement shall include:
  - 1. Total number and size of affordable units.
  - 2. Maximum qualifying household incomes for the affordable units.
  - 3. Standards for calculating affordable rents or affordable sales prices.
  - 4. Enforcement mechanisms, including annual reporting and monitoring to ensure affordable units are continuously occupied by eligible households and remedies for breach of the agreement.
  - 5. Affordability term.

Section 17.50.060 – Consistency with State Law.

The provisions of this subchapter are intended to comply with Government Code Section 65915 and related state laws. In the event that any provision of this section conflicts with Government Code Section 65915 or any related state laws, the state law shall apply.

**Section 6.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of all other provisions of this Ordinance.

The City Council hereby declares that it would have passed the Ordinance codified in this title, and each chapter, section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that anyone or more of the sections, subsections, sentences, clauses, or phrases or portions thereof be declared invalid or unconstitutional.

**Section 7.** The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published in the same manner required by law; provided this Ordinance shall not become effective until final certification by the California Coastal Commission.

**INTRODUCED** at a regular meeting of the City Council of the City of Morro Bay held on the 25<sup>th</sup> day of February 2014, by motion of Councilmember Christine Johnson and seconded by Councilmember Leage.

**PASSED, APPROVED AND ADOPTED** by the City Council of the City of Morro Bay on the 11<sup>th</sup> day of March, 2014 by the following vote to wit:

AYES: Irons, C. Johnson, N. Johnson, Leage, Smukler  
NOES: None  
ABSENT: None

  
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JAMIE L. IRONS, MAYOR

ATTEST:

  
\_\_\_\_\_  
JAMIE BOUCHER, CITY CLERK

APPROVED AS TO FORM:

  
\_\_\_\_\_  
JOSEPH W. PANNONE  
CITY ATTORNEY