

Ordinance No. 2206

**BEING AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CAMPBELL
AMENDING CERTAIN SECTIONS OF TITLE 21 (Zoning) OF THE CAMPBELL
MUNICIPAL CODE RELATING TO DENSITY BONUS**

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

SECTION 1. – Purpose: Campbell Municipal Code section 21.20.010 is amended to read as follows with underlining indicating new text and strikeouts (~~strikeout~~) indicating deleted text:

The purposes of this chapter of the Campbell Municipal Code, Revised are: (1) to provide incentives for the production of housing for very low-income, low-income, moderate-income, and senior households; (2) to provide incentives for the creation of rental housing serving lower and moderate-income households; (3) to provide incentives for the construction of childcare facilities serving very low-, low-, and moderate-income households; and (4) to implement Sections 65915, 65915.5 and 65917 of the California Government Code as required by Government Code Section 65915(a). In enacting this chapter it is also the intent of the city of Campbell to implement the goals, objectives, and policies of the city's General Plan Housing Element, which includes a goal to encourage the provision of housing affordable to a variety of household income levels and identifies a density bonus policy as one method to encourage the development of affordable housing (~~Goal H-5.1~~ Policy H-5.2 Regulatory Incentives, Program ~~5.1(a)~~ 5.2(a) Density Bonus).

SECTION 2. Campbell Municipal Code section 21.20.020 is amended to read as follows with underlining indicating new text:

21.20.020 - Definitions.

For purposes of this chapter, the following definitions shall apply. Unless specifically defined below, words or phrases shall be interpreted as to give this chapter its most reasonable interpretation.

"Affordable ownership cost" means average monthly housing costs, during the first calendar year of a household's occupancy, as determined by the city, including mortgage payments, loan issuance fees, if any, property taxes, reasonable allowances for utilities and property maintenance and repairs, homeowners insurance, and homeowners association dues, if any, which do not exceed the following:

1. For moderate-income households: one-twelfth of thirty-five percent of one hundred ten percent of area median income, adjusted for assumed household size based on presumed occupancy levels of one person in a studio apartment, two persons in a one-bedroom unit, three persons in a two-

bedroom unit and one additional person for each additional bedroom thereafter;

2. For lower-income households: one-twelfth of thirty percent of seventy percent of area median income, adjusted for assumed household size based on presumed occupancy levels of one person in a studio apartment, two persons in a one-bedroom unit, three persons in a two-bedroom unit and one additional person for each additional bedroom thereafter;
3. For very low-income households: one-twelfth of thirty percent of fifty percent of area median income adjusted for assumed household size based on presumed occupancy levels of one person in a studio apartment, two persons in a one-bedroom unit, three persons in a two-bedroom unit and one additional person for each additional bedroom thereafter.

"Affordable rent" means monthly rent, including utilities and all fees for housing services, which does not exceed the following:

1. For lower-income households: one-twelfth of thirty percent of sixty percent of area median income, adjusted for assumed household size based on presumed occupancy levels of one person in a studio apartment, two persons in a one-bedroom unit, three persons in a two-bedroom unit, and one additional person for each additional bedroom thereafter;
2. For very low-income households: one-twelfth of thirty percent of fifty percent of area median, adjusted for assumed household size based on presumed occupancy levels of one person in a studio apartment, two persons in a one-bedroom unit, three persons in a two-bedroom unit, and one additional person for each additional bedroom thereafter.

"Applicant" means a person or entity who applies for a residential project and, if the applicant does not own the property on which the residential project is proposed, also means the owner or owners of the property.

"Area median income" means area median income for Santa Clara County as published pursuant to California Code of Regulations, Title 25, Section 6932, (or its successor provision).

"Childcare facility" means a commercial child day care facility defined in Campbell Municipal Code, Revised Section 21.72.020 as a commercial or non-profit child day care facility not operated as a small or large child day care home and includes infant facilities, preschools, sick child facilities and school-age day care facilities.

"Density bonus" means a density increase, granted pursuant to this chapter, over the otherwise allowable maximum residential density on a site.

"Density bonus units" means living units granted pursuant to this chapter which exceed the otherwise allowable maximum residential density for a residential project.

"Development standard" means a condition that applies to the actual construction or physical site of a residential project (as opposed to standards for entitlement processing or fees) pursuant to any ordinance, general plan element, specific plan, or other local condition, law, policy, resolution or regulation.

"First approval" means the first of the following approvals to occur with respect to a residential project: building permit, planned development permit, tentative parcel map, tentative subdivision map, conditional use permit, site and architectural review permit, or other discretionary city land use approval.

"Household income" means the combined adjusted gross income for all adult persons living in a living unit as calculated for the purpose of the Section 8 Program under the United States Housing Act of 1937, as amended, or its successor.

"Incentives and concessions" means regulatory concessions as listed in Sections 21.20.050 and 21.20.110.

"Inclusionary unit" means an ownership or rental living unit which is required under Chapter 21.24 to be rented at affordable rents or sold at an affordable ownership cost to specified households.

"Living unit" means one or more rooms designed, occupied, or intended for occupancy as separate living quarters with cooking, sleeping and bathroom facilities.

"Lower-income household" means a household whose household income does not exceed the lower income limits applicable to Santa Clara County, as published and periodically updated by the California Department of Housing and Community Development pursuant to Section 50079.5 of the California Health and Safety Code.

"Major transit stop" means an existing site, or a site included in the applicable regional transportation plan, containing a rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods.

"Market rate unit" means a living unit, which is not a target unit or an inclusionary unit.

"Maximum residential density" means the maximum number of living units permitted by the zoning ordinance on the date an application for a residential project is deemed complete. This definition is used to calculate a density bonus pursuant to this chapter.

"Minor modification" means a modification that is technical in nature, as opposed to substantive or material.

"Moderate-income household" means a household whose household income does not exceed the moderate income limits applicable to Santa Clara County, as published and periodically updated by the California Department of Housing and Community Development pursuant to Section 50093 of the California Health and Safety Code.

"Qualifying resident" means a senior citizen or other person eligible to reside in a senior housing project.

"Replace" shall mean:

1. As to dwelling units that are occupied on the date of application, "replace" shall mean to provide at least the same number of units of equivalent size or type, or both, to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those households in occupancy;
2. As to dwelling units have been vacated or demolished in the five-year period preceding the application, "replace" shall mean to provide at least the same number of units of equivalent size or type, or both, as existed at the highpoint of those units in the five-year period preceding the application to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those persons and families in occupancy at that time, if known. If the incomes of the persons and families in occupancy at the highpoint is not known, then one-half of the required units shall be made available at affordable rent or affordable housing cost to, and occupied by, very low income persons and families and one-half of the required units shall be made available for rent at affordable housing costs to, and occupied by, low-income persons and families.

"Residential project" means any parcel map, subdivision map, conditional use permit, site and architectural review permit, building permit, or other city approval, which authorizes the construction of five or more living units.

"Senior housing project" means a senior citizen residential development of thirty-five living units or more as defined in California Civil Code Section 51.3, or a mobilehome park that limits residency based on age requirements for older persons pursuant to California Civil Code Section 798.76 or 799.5.

"Special needs housing" means any housing, including supportive housing, intended to benefit, in whole or in part, persons identified as having special needs relating to any of the following: Mental health; Physical disabilities; Developmental disabilities, including, but not limited to, intellectual disability, cerebral palsy, epilepsy, and autism; the risk of homelessness; or housing intended to meet the housing needs of persons eligible for

mental health services funded in whole or in part by the Mental Health Services Fund, created by Section 5890 of the Welfare and Institutions Code.

"Target units" means living units that will be restricted for sale or rent to qualifying residents or will be restricted for sale or rent to, and affordable to, very low-, lower- or moderate-income households thereby qualifying a residential project for a density bonus under this chapter. Inclusionary units may not be target units unless they are offered at a lower income category as explained in Section 21.20.100(6).

"Unobstructed access" means a resident is able to access a major transit stop from a residential project without encountering natural or constructed impediments.

"Within one-half mile of a major transit stop" means that all parcels within the project have no more than 25 percent of their area farther than one-half mile from the stop or corridor and not more than 10 percent of the residential units or 100 units, whichever is less, in the project are farther than one-half mile from the stop or corridor.

"Very low-income household" means a household whose household income does not exceed the very low income limits applicable to Santa Clara County, as published and periodically updated by the State Department of Housing and Community Development pursuant to Section 50105 of the California Health and Safety Code.

SECTION 3. Campbell Municipal Code section 21.20.030 is amended to read as follows with underlining indicating new text and ~~strikeouts~~ (~~strikeout~~) indicating deleted text:

21.20.030 - Eligibility for density bonuses.

1. A residential project is eligible for a density bonus if it:
 - 4 a. Creates at least five additional living units, not including any density bonus units;
 - 2 b. Includes a request for a density bonus as part of an application for the first approval of a residential project; and
 - 3 c. Meets the criteria for a density bonus established in Sections 21.20.030, 21.20.040, 21.20.060, 21.20.070 or 21.20.080.
2. A residential project shall be ineligible for a density bonus, incentive, concession, waiver, or modified parking provided by this Chapter unless it provides all replacement housing required in accordance with Section 21.20.080 of this Chapter.

SECTION 4. - Campbell Municipal Code section 21.20.080 is amended to read as follows with underlining indicating new text and strikeouts (~~strikeout~~) indicating deleted text:

21.20.080 - Density bonus for properties with existing rental units ~~condominium conversions~~.

1. A residential project for a conversion of existing rental apartments to condominiums may be eligible for a density bonus or other incentives of equivalent financial value as specified in Government Code Section 65915.5.

2. A residential project shall be ineligible for a density bonus incentive, concession, waiver, or modified parking provided by this Chapter if the housing development is proposed on any property that includes a parcel or parcels on which rental dwelling units are or have been (if the dwelling units have been vacated or demolished in the five-year period preceding the application) subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of lower or very low income, subject to any other form of rent or price control through the City's valid exercise of its police power, or occupied by lower or very low income households, unless the proposed housing development replaces those units, and either of the following applies:

a. The proposed housing development, inclusive of the units replaced pursuant to this Chapter contains affordable units at the percentages set forth in this Chapter.

b. Each unit in the development, exclusive of a manager's unit or units, is affordable to, and occupied by, either a lower or very low income household.

3. All replacement calculations resulting in fractional units shall be rounded up to the next whole number. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years. If the proposed development is for-sale units, the units replaced shall be subject to the applicable provisions of this Chapter.

SECTION 5. - Summary tables. The Density Bonus Summary table in Campbell Municipal Code section 21.20.090 is amended to read as follows with underlining indicating new text and strikeouts (~~strikeout~~) indicating deleted text:

The following table summarizes the available density bonuses, incentives, and concessions.

<u>Density Bonus Summary</u>				
Types of Affordable Units Providing Eligibility for a Density Bonus	Minimum %	Bonus Granted	Additional Bonus for Each 1% Increase over the Minimum %	% Target Units Required for Maximum 35% Bonus
A density bonus may be selected from only one category, except that bonuses for land donation may be combined with others, up to a maximum of 35%, and an additional sq. ft. bonus may be granted for a childcare facility. As provided in Section 21.20.100(5), target units provided must be in addition to, or provided to a lower income category than, those required by the city's inclusionary housing requirements.				
Very low income	5%	20%	2.5%	11%
Lower income	10%	20%	1.5%	20%
Moderate income (ownership units only)	10%	5%	1%	40%
Senior housing project	100% senior	20%	—	—
Land donation for very low-income housing	10% of market-rate units	15%	1%	30% of market-rate units
Condominium conversion — moderate income	33%	25% ^(A)	—	—
Condominium conversion — lower income	15%	25% ^(A)	—	—
Childcare facility	—	Sq. ft. in childcare facility ^(A)	—	—

Notes:

(A) Or an incentive of equal value, at the city's option.

Density Bonus Summary

1. Very Low Income. If providing Very-Low-Income units, the density bonus shall be calculated as follows:

<u>Percentage Very Low Income Units</u>	<u>Percentage Density Bonus</u>
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35

2. Low Income. If providing Low Income units, the density bonus shall be calculated as follows:

<u>Percentage Low-Income Units</u>	<u>Percentage Density Bonus</u>
10	20
11	21.5
12	23
13	24.5
14	26
15	27.5
17	30.5
18	32
19	33.5
20	35

3. Moderate Income. If providing Moderate Income units, the density bonus shall be calculated as follows:

<u>Percentage Moderate-Income Units</u>	<u>Percentage Density Bonus</u>
10	5
11	6
12	7
13	8
14	9
15	10
16	11
17	12
18	13
19	14
20	15
21	16
22	17
23	18
24	19
25	20
26	21
27	22
28	23
29	24
30	25
31	26
32	27
33	28
34	29

35	30
36	31
37	32
38	33
39	34
40	35

4. Senior Citizen Housing. If providing senior citizen housing, the density bonus shall be 20 percent of the number of senior housing units.

5. Conversion. If converting apartments to a condominium project in compliance with Chapter 21.24, the density bonus shall be 25 percent when an applicant 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 or 15 percent of the total units of the proposed condominium project to lower income households.

6. Land Donation. If, as part of a tentative subdivision map, parcel map, or other residential development approval, the applicant dedicates land to the City for affordable housing, the applicant shall be entitled to a 15-percent increase above the otherwise maximum allowable residential density for the entire development, as follows:

<u>Percentage Very Low Income</u>	<u>Percentage Density Bonus</u>
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

SECTION 6. Calculation of density bonus. Subsection 6 of Campbell Municipal Code section 21.20.100 is amended to read as follows with underlining indicating new text and strikeouts (~~strikeout~~) indicating deleted text:

6. ~~Inclusionary units will only be counted as target units qualifying a project for a density bonus, or incentives and concessions, if the inclusionary units are made available at a lower affordable rent income category or lower affordable ownership cost income category than mandated by the inclusionary requirements set forth in Chapter 21.24. Inclusionary units that are counted as target units shall remain affordable for the length of time required in Chapter 21.24, which is fifty five years for rental units and forty five years for owner-occupied units.~~

If an applicant desires affordable units to satisfy both the inclusionary requirements set forth in Chapter 21.24 and State density bonus requirements, the units must meet both the criteria of Chapter 21.24 and the State density bonus requirements as applied under this Chapter.

Example: An applicant proposes to develop a one hundred-unit residential ~~rental for-sale~~ project and seeks a twenty percent density bonus by reserving five percent of the living units, or five living units, for very low-income households.

The inclusionary requirements in Chapter 21.24 require that ~~six percent~~ 15% of the living units in a residential ~~for-sale~~ project shall be sold at affordable ownership cost to lower-income households and moderate-income households. ~~rental project be reserved for very low-income households (the "required very low-income inclusionary units") and~~

~~nine percent of the living units must be reserved for lower income households (the "required lower income inclusionary units"). Thus, in this one hundred unit residential project, the applicant is required to reserve six of the living units for very low income households and nine of the units for lower income households. Because the required inclusionary units do not count as target units qualifying a project for a density bonus unless the inclusionary units are reserved for a lower income category than required under Chapter 21.24, Therefore an additional 10 inclusionary units are needed to meet the 15% inclusionary requirement. The income unit break down for this one hundred-unit project would be as follows:~~

<u>Example</u>					
	Inclusionary Units	Target Units	DB Units	Remaining Units	Total
Very low income:	6 (55 years)	5 (30 years)			11 <u>5</u>
Lower income:	9 (55 years) <u>2</u>				9 <u>2</u>
<u>Moderate income:</u>	<u>8</u>				<u>8</u>
Market rate:			20	80 <u>85</u>	100 <u>105</u>
				Total units	120

~~However, if the applicant reserves any of the required lower income inclusionary units for very low income households, then these units will qualify as target units qualifying the project for a density bonus. If five of the required lower income inclusionary units are reserved for very low income units, then those five units would be considered target units qualifying the project for a density bonus. In this scenario, the income unit break down would be as follows:~~

	Inclusionary Units	Target/ Inclusionary Units	DB Units	Remaining Units	Total
Very low income:	6 (55 years)	5 (55 years)			11
Lower income:	4 (55 years)				4
Market rate:			20	85	105
				Total units	120

SECTION 7. - Standards for density bonus residential developments. The term of affordability for rental projects specified in Subsection 1 of Campbell Municipal Code section 21.20.120 is amended to read as follows with underlining indicating new text and strikeouts (strikeout) indicating deleted text:

1. Target units qualifying a residential project for a density bonus shall remain affordable as follows:
 - a. Rental target units shall remain affordable to the designated income group for a minimum of thirty 55 years or for a longer period of time if required by any construction or mortgage financing assistance program, mortgage insurance program, rental subsidy program applicable to the living units, ~~or if they are inclusionary units being counted as target units pursuant to Section 21.20.100(6).~~
 - ~~b. Owner-occupied target units shall remain affordable for forty-five years.~~

SECTION 8. Standards for density bonus residential developments. Subsection 4 of Campbell Municipal Code section 21.20.120 is amended to read as follows with underlining indicating new text and ~~strikeouts~~ (~~strikeout~~) indicating deleted text:

4. Parking Standards

a. Upon the request of the developer, the city shall not require off-street parking for a residential project meeting the criteria of Sections 21.20.030 and 21.20.040(1) or (2) that exceeds the following:

- a. (1) Studio to one-bedroom units: one (1) on-site parking space;
- b. (2) Two to three-bedroom units: two (2) on-site parking spaces;
- c. (3) Four and more bedroom units: two and one-half (2.5) parking spaces.

b. Upon the request of the developer, the city shall not require a vehicular parking ratio that exceeds the following ratios for housing developments that are eligible for a density bonus and meet the criteria below. However, if the city, at its cost, has conducted an area wide or citywide parking study in the last seven years, then the city may find, based on substantial evidence, that a higher parking ratio is required than shown in the following table. In no event may the required parking be greater than the ratio provided in subsection (a) of this section. The parking study must conform to the requirements of Government Code Section 65915(p)(7).

<u>Type of development</u>	<u>Off-street parking spaces</u>
<u>Rental or ownership housing development with:</u> <ol style="list-style-type: none"> 1. <u>At least 11% very low income or 20% lower income units; and</u> 2. <u>Within one-half mile of a major transit stop; and</u> 3. <u>Unobstructed access to the major transit stop.</u> 	<u>0.5 per bedroom</u>

<u>Rental housing development with:</u> 1. <u>All units affordable to lower income households except manager's unit(s); and</u> 2. <u>Within one-half mile of a major transit stop; and</u> 3. <u>Unobstructed access to the major transit stop.</u>	<u>0.5 per unit</u>
<u>Senior citizen rental housing development with All units affordable to lower income households except manager's unit(s); and either has paratransit service or is within one-half mile of fixed bus route service that operates 8 times per day, with unobstructed access to that service.</u>	<u>0.5 per unit</u>
<u>Special needs rental housing development with all units affordable to lower income households except manager's unit(s) and either has paratransit service or is within one-half mile of fixed bus route service that operates 8 times per day, with unobstructed access to that service.</u>	<u>0.3 per unit</u>

c. Guest parking and handicapped parking shall be included within the maximum number of spaces that may be required. If the total number of parking spaces required for a residential project is other than a whole number, the number shall be rounded up to the next whole number. For purposes of this section, a residential project may provide on-site parking through tandem parking or uncovered parking, but not through on-street parking.

SECTION 9. Campbell Municipal Code section 21.20.130 is amended to read as follows with underlining indicating new text and ~~strikeouts~~ indicating deleted text:

21.20.130 - Affordable housing plan submittal; requirements for application for density bonus and other incentives.

1. An application for a density bonus, incentive, concession, waiver, modification, or ~~revised~~ reduced parking standard pursuant to this chapter shall be submitted as part of the first approval of the residential project. It shall be included in an affordable housing plan and processed concurrently with all other applications required for the residential project.
2. Upon submittal, the community development director shall determine if the affordable housing plan is complete and conforms to the provisions of this chapter. No application for a first approval for a residential project requesting a density bonus, incentives, concessions, or waivers, or reduced parking standards may be deemed complete unless an affordable housing plan is submitted conforming to the provisions of this section.
3. The affordable housing plan shall include the following information:

- a. A description of any requested density bonuses, incentives, concessions, waivers, or modifications of development standards, or ~~modified~~ reduced parking standards;
- b. Identification of the base project without the density bonus, number and location of all target units qualifying the project for a density bonus, level of affordability of the target units, and identification of the bonus units;
- c. The preferences given in selecting occupants shall be set forth;
- d. For all incentives and concessions except those listed in Section 21.20.110(2), a pro forma demonstrating that the requested incentives and concessions result in identifiable, financially sufficient and actual cost reductions;
- e. For waivers or modifications of development standards: (a) a pro forma demonstrating that the waiver or modification is necessary to make the residential project economically feasible based upon appropriate financial analysis and documentation; and (b) evidence that the development standards for which a waiver is requested will have the effect of precluding the construction of the residential project at the densities or with the incentives or concessions permitted by this chapter;
- f. The cost of reviewing any required pro forma data submitted in support of a request for a concession, incentive, waiver or modification, including, but not limited to, the cost to the city of hiring a consultant to review the pro forma, shall be borne by the applicant. The pro forma shall also include: (ai) the actual cost reduction achieved through the incentive, concession, waiver, or modification; and (bij) evidence that the cost reduction allows the developer to provide affordable rents or affordable sales prices;
- g. If the applicant is proposing a modification of the requirement that the target units be constructed concurrently with the market rate units, the affordable housing plan shall describe the proposed phasing at the same level of detail as required in the application for the residential project, specify the security to be provided to the city to ensure that the target units will be constructed, and explain how the proposed phasing would provide greater public benefit than providing the target units concurrently with the market rate units;
- h. If a density bonus or concession is requested for a senior housing project, the application shall provide that units in the residential project shall be occupied by qualified residents;
- i. If a density bonus or concession is requested for a land donation, the application shall show the location of the land to be dedicated and provide evidence that each of the findings in Government Code Section 65915(h) can be made;
- j. If a density bonus or concession is requested for a childcare facility, the application shall show the location and square footage of the childcare facility and provide evidence that the findings included in Government Code Section 65915(i) can be made;

- k. If a mixed use building or development is proposed, the application shall provide evidence that the findings included in Section 21.20.110(4)(g) can be made;
 - l. For residential projects subject to the inclusionary housing requirements set forth in Chapter 21.24, the affordable housing plan shall also incorporate the requirements of Section 21.24.060(A), and only one affordable housing plan need be submitted;
 - m. A description of all dwelling units existing on the site in the five-year period preceding the date of submittal of the application and identification of any units rented in the five-year period. If dwelling units on the site are currently rented, income and household size of all residents of currently occupied units. If any dwelling units on the site were rented in the five-year period but are not currently rented, the income and household size, if known, of residents occupying dwelling units when the site contained the maximum number of dwelling units;
 - n. Description of any recorded covenant, ordinance, or law applicable to the site that restricted rents to levels affordable to very low or lower income households in the five- year period preceding the date of submittal of the application;
 - o. A statement that the project will provide all replacement housing required in accordance with Section 21.20.080 of this Chapter;
 - p. If a parking reduction is requested, a table showing parking required by the zoning ordinance and proposed parking. If a parking reduction is requested, evidence that the project is eligible for the requested parking reduction.
4. Upon submittal, the community development director shall determine if the affordable housing plan submitted in support of a request for a density bonus, incentive, concession, waiver, modification, or revised reduced parking standard is complete and conforms to the provisions of this chapter and Chapter 21.24. No application for a first approval for a residential project requesting a density bonus, incentives, concessions, or waivers may be deemed complete unless an affordable housing plan is submitted conforming to the provisions of this chapter.

SECTION 10. City review of application for density bonuses and other incentives.

Subsection 1 of Campbell Municipal Code section 21.20.140 is amended to read as follows with underlining indicating new text and strikeouts (~~strikeout~~) indicating deleted text:

- 1. An application for a density bonus, incentive, concession, waiver, modification, or revised reduced parking standard pursuant to this chapter shall be reviewed as part of the first approval of the residential project by the approval body with authority to

approve the residential project, unless additional review by the planning commission or City Council is required by Chapter 21.62. Any decision regarding a density bonus, incentive, concession, waiver, modification, or ~~revised~~ reduced standard may be appealed as part of an appeal of the residential project as provided in Chapter 21.62. In accordance with state law, neither the granting of a concession or incentive, nor the granting of a density bonus, shall be interpreted, in and of itself, to require a general plan amendment, zoning change or other discretionary approval.

SECTION 11. Developer affordable housing agreement. Campbell Municipal Code section 21.20.150 is amended to read as follows with underlining indicating new text and ~~strikeout~~ indicating deleted text:

- A. Developers requesting a density bonus, incentive, concession, waiver, modification, or ~~revised~~ reduced standard granted pursuant to this chapter, shall agree to enter into a developer affordable housing agreement with the city. A developer affordable housing agreement shall be made a condition of the discretionary planning permits for all residential projects pursuant to this chapter and shall be recorded as a restriction on any parcels on which the target units will be constructed. When the inclusionary requirements of Chapter 21.24 apply, one affordable housing agreement will be recorded incorporating the requirements of both chapters.
- B. The developer affordable housing agreement shall be recorded prior to final or parcel map approval, or, where the residential project does not include a map, prior to issuance of a building permit for any structure in the residential projects. The developer affordable housing agreement shall run with the land and bind all future owners and successors in interest.
- C. The developer affordable housing agreement shall be in a form provided by the city and shall include, without limitation, the following:
 - 1. The total number of units approved for the residential project;
 - 2. The number, location, and level of affordability of the target units and the inclusionary units;
 - 3. The number of replacement units in accordance with Section 21.20.080 of this Chapter;
 - 4. Standards for determining affordable rent or affordable ownership cost for the target units and any inclusionary units;
 - 5. The location, unit size in square feet, and number of bedrooms of target units and any inclusionary units;
 - 6. Provisions to ensure initial and continuing affordability in accordance with the requirements of this chapter and Chapter 21.24, including the execution and recordation of subsequent agreements ensuring continued affordability pursuant to Sections 21.20.120 and 21.24.060;

7. A schedule for completion and occupancy of target units and inclusionary units in relation to construction of market rate units;
 8. A description of any incentives, concessions, waivers, or reductions being provided by the city;
 9. A description of remedies for breach of the agreement by either party. The city may identify tenants or qualified purchasers as third party beneficiaries under the agreement;
 10. Procedures for qualifying tenants and prospective purchasers of target units, including preferences;
 11. Provisions requiring maintenance of records to demonstrate compliance with this chapter;
 12. Other provisions to ensure implementation and compliance with this chapter and Chapter 21.24, if applicable.
- D. In the case of senior citizen housing developments, the developer affordable housing agreement shall provide that units in the residential development shall be occupied by qualified residents.
- E. Developer affordable housing agreements for land dedication, childcare facilities, and condominium conversion shall ensure continued compliance with all conditions included in Sections 21.20.060, 21.20.070 and 21.20.080 respectively.
- F. Fees. The building permit application shall be accompanied by the processing fees or deposits established by the city's schedule of fees and charges. All fees shall cover the costs of BMR eligibility determination and BMR document preparation, processing and administration, as established in Sections 21.20.160 and 21.20.180.

SECTION 12. Continued affordability and initial occupancy. Subsection A of Campbell Municipal Code section 21.20.160 is amended to read as follows with underlining indicating new text and ~~strikeouts~~ (strikeout) indicating deleted text:

- A. ~~Owner Occupied Target Units. A resale restriction, covenant, deed of trust and/or other documents acceptable to the community development director or the director's designee, shall be recorded against each affordable for sale unit. These documents shall, in the case of target units, which are initially sold, be for a term of forty five years and shall be renewed at each change of title for a period of forty five years. The resale restriction, or other documents authorized by this subsection, and any change in the form of any such documents which materially alters any policy in the documents, shall be approved by the community development director or his or her designee prior to being executed with respect to any residential project.~~
- A. **For-Sale Target Units.** An applicant shall agree to, and the city shall ensure that, the initial occupant of all for-sale units that qualified the applicant for the award of the density bonus are persons and families of very low, low, or

moderate income, as required, 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 City shall enforce any equity sharing agreement, unless it is in conflict with the requirement 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 city shall recapture any initial subsidy and its proportionate share of appreciation, which amount shall be used within five (5) 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. For purposes of this Subsection, the city'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. For purposes of this Subsection, the city's proportionate share of appreciation shall be equal to the ratio of the city's initial subsidy to the fair market value of the home at the time of initial sale.

SECTION 13. Continued affordability and initial occupancy. Subsection B of Campbell Municipal Code section 21.20.160 is amended to read as follows with underlining indicating new text and ~~strikeouts~~ indicating deleted text:

- B. Rental Target Units. A regulatory agreement, covenant, deed of trust, and/or other documents acceptable to the community development director or the director's designee, shall be recorded against each residential project containing affordable rental units for a minimum term of thirty 55 years or more. A longer period of time may be specified if required by any construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program applicable to the residential project.

SECTION 14. GENERAL REQUIREMENTS. Subsection B of Campbell Municipal Code Section 21.24.040 is amended to read as follows with underlining indicating new text and ~~strikeouts~~ indicating deleted text:

- B. **Exceptions.** ~~For purposes of calculating the number of affordable units required by this section, any additional units authorized as a density bonus pursuant to Chapter 21.20, (Density Bonus and Affordable Housing Incentives) of this code shall not be counted in calculating the required number of affordable units. Additionally, t~~The community development director may grant exceptions to the requirements of this chapter to residential projects located within the redevelopment project area, upon a finding that such exception is necessary to effective implementation of the

redevelopment plan, while maintaining overall compliance with affordable housing production requirements set forth in Health and Safety Code Section 33413.

SECTION 15. This Ordinance shall become effective (30) days following its passage and adoption and shall be published once within fifteen (15) days upon passage and adoption in the Campbell Express, a newspaper of general circulation in the City of Campbell, County of Santa Clara.

PASSED AND ADOPTED this 2nd day of August 2016 by the following roll call vote:

AYES: Councilmembers: Kotowski, Resnikoff, Cristina, Gibbons, Baker
NOES: Councilmembers: None
ABSENT: Councilmembers: None

APPROVED:



Jason T. Baker, Mayor

ATTEST:



Wendy Wood, City Clerk