



CITY COUNCIL

STAFF REPORT

November 6, 2024

ITEM TITLE: SECOND READING & ADOPTION OF ORD. NO. 2024-1251 AMENDING TITLE 19 TO UPDATE THE CITY'S ZONING ORDINANCE FOR BY-RIGHT HOUSING DEVELOPMENT APPROVAL TO MEET STATE LAW & APPROVING THE LCP AMENDMENT & EXEMPTION PER CEQA GUIDELINES SECTION 15061(b)(3).(0660-95)

ORIGINATING DEPARTMENT:

Community Development

EXECUTIVE SUMMARY:

The City of Imperial Beach adopted its Housing Element on June 16, 2021 which was certified by the California Department of Housing and Community Development on September 20, 2021. Within the Housing Element, the City has outlined goals and policies to address Imperial Beach's housing needs, which are implemented through a series of housing programs. Housing programs define the specific actions the City will undertake to achieve the stated goals and policies within the eight-year (2021-2029) planning period. Program 9 of Section 5.2.3 (Provision of Adequate Housing Sites) of the City's Housing Element provides that pursuant to Assembly Bill (AB) 1397, which was adopted in 2017 and amended Government Code Sections 65580, 65583, and 65583.2, the City is required to amend the Zoning Ordinance to require by-right approval of housing developments that includes 20 percent of the units as housing affordable to lower income households, on sites being used to meet the 6th cycle Regional Housing Needs Assessment (RHNA) that represent a "reuse" of sites previously identified in the 4th and 5th cycles Housing Element. The "reuse" sites are specifically identified in the sites inventory section of the Housing Element. To be consistent with the requirements per California Government Code Section 65863.2 and with the City's adopted Housing Element, revisions are proposed for sections of Title 19 (Zoning) ordinance. Additionally, within the past year, additional changes to density bonus law amending Government Code Section 65915 have been implemented and, as such, alterations are proposed to update the City's density bonus ordinance to reflect changes in State Law.

On November 6, 2024, the City Council had the first reading and introduction of Ordinance No. 2024-1251, which would amend Imperial Beach Municipal Code (IBMC) Title 19 (Zoning) to allow by-right housing development approval consistent with Program 9 of the City's Housing Element to meet State Law and to update the City's density bonus ordinance to reflect changes in State Law. This, therefore, will be the Second and Final Reading of this ordinance for compliance with the notification requirements of an ordinance adoption pursuant to Government Code Sections 65090 and 65091.

RECOMMENDATION:

That the City Council conduct the second reading by title only, waiving further reading, and adopt Ordinance No. 2024-1251 by title only approving the proposed amendment, Local Coastal Program Amendment (LCPA-23-0001) of Title 19 (Zoning) to allow by-right housing development approval consistent with Program 9 of the City's Housing Element to meet State Law and to

update the City's density bonus ordinance to reflect changes in State Law; and finding and certifying that the proposed zoning amendment (Ordinance 2024-1251) is consistent with the Coastal Act; and finding an exemption pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3) (the common sense exemption).

OPTIONS:

The City Council can also:

- Provide direction to modify the ordinance prior to further consideration by the City Council.
- Continue the item and provide direction to the City Manager to obtain additional information.

BACKGROUND/ANALYSIS:

The California Legislature enacted legislation amending Government Code Sections 65580, 65583, and 65583.2 relating to housing that went into effect as of January 1, 2018 with the intent to strengthen the obligations in Housing Element Law that housing elements identify and zone sufficient sites to address the need for lower income housing units and facilitate the construction of new affordable residential dwelling units in response to the state's housing shortage (ref. Assembly Bill (AB) 1397). Existing ordinances that fail to meet the requirements of the legislation are considered null and void as the City must apply the standards established within the legislation. The City's existing Zoning ordinance, Imperial Beach Municipal Code Title 19 Zoning, does not include provisions to meet the state's requirements and, as such, affordable housing developments that qualify for by-right review and approval in the City of Imperial Beach are regulated by the requirements in Government Code Section 65583.2 in addition to the provisions of the City's adopted Housing Element.

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The draft ordinance (Attachment 1) revises Title 19 (Zoning) Ordinance, specifically Chapters 19.04, 19.27, 19.28, 19.65, and 19.83. The revisions to the Chapters include: adding definitions for affordable housing rent, affordable sales price, area median income, lower income household, and amending the by right review definition; identifying the uses that are subject to the by right review consistent with state law; and adding the by right approval process for projects that require design review consistent with Government Code Section 65583.2(i).

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LOCAL COASTAL PROGRAM AMENDMENT:

This project constitutes an amendment to the Implementation Component of the City's certified Local Coastal Program. It proposes modifications to the Title 19 (Zoning) to allow by-right housing development approval consistent with Program 9 of the City's Housing Element to meet State Law and to update the City's density bonus ordinance to reflect changes in State Law. A public notice of the proposed amendments initiated a six-week/45-day public review period that began on August 22, 2024 and ended on October 7, 2024 prior to any final action being taken by the City Council on the proposed modifications, pursuant to California Code of Regulations Code §13515 (14 CCR 13515) and California Government Code §65352. The proposed amendments to Title 19 of the Imperial Beach Municipal Code would be submitted to the California Coastal Commission for review and certification for the amendment to be effective.

ENVIRONMENTAL DETERMINATION:

The by-right housing development and density bonus Ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3) (the common sense exemption) because it can be seen with certainty that there is no possibility that the adoption of the by-right housing development and density bonus ordinance may have a significant effect on the environment, in that the by-right housing development and density bonus ordinance merely implements the provisions of state law and includes no provisions beyond those included in State Density Bonus Law and those included in Government Code Sections 65650 et seq. and 65583 et seq. that may result in a direct or indirect impact on the physical environment.

FISCAL IMPACT:

There would be no fiscal impact.

ATTACHMENTS:

Attachment 1 – Ordinance 2024-1251