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## Chapter 20.36 – Conversion or Demolition of Affordable Housing in the Coastal Zone

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### 20.36.010 – Purpose and Applicability

- A. Consistency with the Mello Act.** It is intended that the provisions of this Chapter shall be fully consistent and in full compliance with the Mello Act (Government Code Section 65590). In the case of conflict between the provisions of this Chapter and those of the Mello Act, the latter shall control.
- B. Purpose.** This Chapter is enacted for the purpose of implementing the Mello Act by providing regulations for the conversion or demolition of dwelling units occupied by low- and moderate- income households within the coastal zone. More specifically, this Chapter seeks to maintain dwelling units occupied by low- moderate- income households in the coastal zone in compliance with the Mello Act.

### 20.36.020 – Definitions

For the purpose of this Chapter, “Occupied by persons and families of low- and moderate-income” shall include:

- A.** Any person or families, excluding dependants, of low- and moderate-income that occupy the residential dwelling unit as of the date the application is filed; and
- B.** Any residential dwelling unit occupied by any person or family, excluding dependents, of low- or moderate-income if the person or family was evicted from the subject dwelling unit within one year prior to the filing of an application to convert or demolish the unit and if the eviction was for the purpose of avoiding the requirements of this Chapter. If a substantial number of persons or families of low- or moderate-income were evicted from the subject residential structure within one year prior to the filing of an application to convert or demolish that structure, the evictions shall be presumed to have been for the purpose of avoiding the requirements of this Chapter.

**20.36.030 – Compliance Required****A. Replacement of residential use with residential use.**

1. **Feasibility analysis required.** Except as provided in Subsection C, no building permit, subdivision approval, or other land use entitlement shall be issued for the conversion or demolition of an existing residential dwelling unit that is located in the coastal zone and occupied by persons and families of low- or moderate-income for a continuing residential use until the City has performed a feasibility analysis and the applicable determinations as provided in Section 20.36.080, below, have been made.
2. **Affordable housing agreement required.** If it is determined that the replacement of all or any portion existing residential dwelling units is feasible, no building permit shall be issued for the conversion or demolition of the existing residential dwelling unit until an Affordable Housing Agreement, consistent with the Director's determinations in compliance with Section 20.36.080, is entered into and recorded with the County Recorder.

**B. Replacement of residential use with nonresidential use.**

1. **Residential use no longer feasible.** Except as provided in Subsection C, no building permit, subdivision approval, or other land use entitlement shall be issued for the conversion or demolition of an existing residential dwelling unit that is located in the coastal zone and occupied by persons and families of low- or moderate-income for a nonresidential use that is not coastal dependent until it has been determined that a residential use is no longer feasible.
2. **Affordable housing agreement required.** If it is determined that a residential use is no longer feasible, no building permit shall be issued for the conversion or demolition of the existing residential dwelling unit until an Affordable Housing Agreement, consistent with the Director's determinations in compliance with Section 20.36.080, is entered into and recorded with the County Recorder.
3. **Residential use still feasible.** If a residential use is feasible at the location, no building permit, subdivision approval or other land use entitlement shall be issued for the conversion or demolition of the existing residential dwelling unit until an Affordable Housing Agreement, consistent with the Director's determinations in compliance with Section 20.36.080, is entered into and recorded with the County Recorder.

**C. Exemptions:** The provisions of this Chapter shall not apply to the following:

1. **Structure is a public nuisance.** Demolition of a residential structure that has been declared a public nuisance in compliance with the provisions of Health and Safety Code Division 13 (commencing with Section 17000) or Chapter 10.50. For purposes of this Chapter, no structure, which conforms to the standards that were applicable at the time the structure was constructed and that does not constitute a substandard structure, as provided in Section 17920.3 of the Health

and Safety Code, shall be deemed to be a public nuisance solely because the structure does not conform to one or more of the current provisions for new construction in compliance with Title 15 of the Municipal Code; or

2. **Less than 3 units.** The conversion or demolition of residential structures in an R-1 or R-2 zoning district that contains less than 3 dwelling units for a continuing residential use..

#### **20.36.040 – Application for Mello Act Determination**

Any person seeking to convert or demolish an existing residential dwelling unit in the coastal zone that is occupied by persons and families of low- or moderate-income shall file an application for a Mello Act Determination consistent with the requirements of Chapter 20.66, on forms approved by the Director.

#### **20.36.050 – Administration and Feasibility Analysis Fees**

- A. **Administration fee.** An application to convert or demolish residential units in the coastal zone shall be accompanied by an administration fee in compliance with the City's Master Fee Schedule.
- B. **Feasibility analysis processing fee.** If the Director determines that a feasibility analysis is required, the total cost of a feasibility analysis plus a feasibility analysis processing fee shall be paid by the applicant. The feasibility analysis processing fee shall be a percentage of the total feasibility analysis cost and shall be used to cover the cost of processing the feasibility analysis.

#### **20.36.060 – Application Information and Materials**

- A. **Required information.** The applicant shall provide the following information:
  1. Whether the applicant seeks to convert the use of an existing residential dwelling unit occupied by a person or family of low- or moderate-income to a nonresidential use. If the person is seeking to convert the use to a nonresidential use, the person shall also indicate whether they are contending the new use is coastal dependent;
  2. Whether the applicant is agreeing to replace all existing residential dwelling units occupied by persons and families of low- or moderate-income on-site or is requesting a feasibility analysis;
  3. The address of the property;
  4. The total number of existing units;
  5. Documentation on the income of the tenants;
  6. Square footage and number of bedrooms per unit;

7. Names and addresses of current tenants;
  8. Tenant family size in each unit;
  9. Information on any evictions within the last year;
  10. Whether there are currently any vacant units and how long they have been vacant; and
  11. Any other reasonable information requested by the Director
- B. Income survey.** If requested by the Director, the applicant shall conduct an income survey of the applicant's tenants in a manner approved by the Director.

#### **20.36.070 – Review Authority.**

- A. Director.** The Director shall have authority to investigate and render determinations on applications submitted consistent with this Chapter and shall document information regarding the income status and household size of current tenants.
- B. Referral to Commission.** The Director may defer action and refer a determination to the Commission for a decision on any of the matters outlined in this Chapter.
- C. Exception.** The City Council shall have final decision making authority on applications for a Mello Act Determination filed concurrently with amendments to the General Plan, Zoning Code, or a planned community development plan or with a development agreement.

#### **20.36.080 – Determinations.**

- A. Applicability of chapter.** The Director shall make a determination as to the applicability of this Chapter when a residential structure is to be converted or demolished.
- B. Number of units occupied by low- moderate income households.**

To the extent the Director determines that this Chapter applies, the Director shall determine the number of existing residential dwelling units occupied by low- and moderate-income persons or families.

- C. Feasibility of providing replacement dwelling units.**

If the applicant is contending that it is not feasible to replace all of the units, replace all of the units on-site, replace all of the units within the City and in the coastal zone, or replace all units within the City and within three miles of the coastal zone, the Director shall make a determination based on the application materials submitted and feasibility analysis as follows:

1. Whether all or any portion of the converted or demolished dwelling units occupied by persons and families of low- or moderate-income is feasible.

2. Whether it is feasible to replace all or any portion of the converted or demolished dwelling units occupied by persons and families of low- or moderate-income on-site.
3. If it is determined to be not feasible to replace all or any portion of the converted or demolished dwelling units on-site, whether it is feasible to replace all or any portion of the converted or demolished dwelling units off-site within the City's coastal zone.
4. If it is determined to be not feasible to replace all or any portion of the converted or demolished dwelling units on-site or in the coastal zone, whether it is feasible to replace all or any portion of the converted or demolished dwelling units off-site within the City and three miles of the coastal zone.

**D. Nonresidential uses, feasibility of providing replacement dwelling units.**

If the applicant is seeking to convert or demolish a residential structure subject to this Chapter for the purposes of a nonresidential use, the Director shall make a determination based on the application materials submitted and feasibility analysis as follows:

1. The Director shall first make a determination whether the use is coastal dependent. If the proposed use is coastal dependent, the Director may make the determinations provided in Subsection C, above, if a feasibility analysis is required;
2. If the proposed use is not coastal dependent, the Director shall make a determination as to whether a residential use is feasible in that location. If a residential use is feasible at the location, the Director shall not approve the conversion or demolition; or
3. If the proposed use is not coastal dependent and a residential use is no longer feasible, the Director shall make a determination as to:
  - a. Whether it is feasible to replace the converted or demolished dwelling units occupied by persons and families of low- or moderate-income on-site;
  - b. If it is determined to be infeasible to replace the converted or demolished dwelling units on-site, whether it is feasible to replace the converted or demolished dwelling units within the City's coastal zone; or
  - c. If it is determined to be infeasible to replace the converted or demolished dwelling units on-site or in the coastal zone, whether it is feasible to replace the converted or demolished dwelling units off-site within the City and three miles of the coastal zone.

**20.36.090 – Affordable Housing Agreement**

- A. Form of agreement.** The form of the agreement shall be similar in content to the agreement specified in Section 20.34.070 (Affordable Housing Agreement) and as required by the City Attorney.
- B. Availability of Affordable Units.** The replacement dwelling units shall be provided and available for use within three years from the date upon which work commenced on the conversion or demolition of the existing residential dwelling unit.
- C. Period of affordability.** The agreement shall provide that the required affordable dwelling units remain affordable for a minimum of 30 years.

Chapters 20.38 and 20.40 to be distributed  
at a dated TBD