

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE ADDING SECTION 16.52.270 RELATING TO IMPLEMENTATION OF AB 1397 AND AMENDING CHAPTER 16.82 OF THE ARROYO GRANDE MUNICIPAL CODE RELATING TO STATE DENSITY BONUS LAW AND FINDING THE ORDINANCE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT**

**WHEREAS**, on May 5, 2021, the California Department of Housing and Community Development certified the City's sixth cycle (2020-2028) Housing Element; and

**WHEREAS**, the Housing Element profiles the City's compliance with various state housing laws, including Senate Bill 2; and

**WHEREAS**, Housing Element Program A.1-1 directs the City to amend the Municipal Code to comply with Assembly Bill 1397 to allow ministerial approval of housing projects where at least twenty percent of the units are affordable to lower income household on parcels identified in this program; and

**WHEREAS**, Housing Element Program A.10-1 directs the City to amend the Municipal Code relating to density bonuses to comply with current State law; and

**WHEREAS**, this Ordinance adds section 16.52.270 to allow ministerial review of housing projects that are consistent with AB 1397 and amends section 16.82 to specify that the City adopts State density bonus law by reference; and

**WHEREAS**, on July 30, 2024, the Planning Commission conducted a duly noticed public hearing to consider the staff report, recommendations by staff, and public testimony concerning the ordinance. Following the public hearing, the Planning Commission voted to forward the ordinance to the City Council with a recommendation in favor of its adoption; and

**WHEREAS**, on August 13, 2024, the City Council conducted a duly noticed public hearing to consider the ordinance, including: (1) the public testimony and agenda reports prepared in connection with the ordinance; (2) the policy considerations discussed therein; and (3) the consideration and recommendation of the Planning Commission; and

**WHEREAS**, the City Council of the City of Arroyo Grande, at its regularly scheduled public meeting on August 13, 2024 introduced this Ordinance to add Section 16.52.270 and amend Section 16.82 of Title 16 of the Arroyo Grande Municipal Code; and

**WHEREAS**, all legal prerequisites to the adoption of the ordinance have occurred.

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE DOES ORDAIN AS FOLLOWS:**

**SECTION 1. Incorporation.** The above recitals are true and correct and are incorporated herein by this reference.

**SECTION 2. Environmental.** The City Council finds that this ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines sections 15060(c)(2) and 15061(b)(3) because it will not result in a direct or reasonably foreseeable physical change in the environment; and the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The DCA allows for the ministerial review of housing projects on certain sites specified in the Housing Element and ministerial projects are not subject to CEQA. An update to the Municipal Code related to density bonuses is also exempt because this action cannot cause a physical change to the environment on its own. Thus, it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment, the activity is not subject to CEQA.

**SECTION 3. Required Findings.** In accordance with section 16.16.040(E) of the Arroyo Grande Municipal Code, the City Council hereby makes the following findings:

1. *General Plan.* The ordinance's amendments to the AGMC are consistent with the General Plan and necessary and desirable to implement the provisions thereof. Specifically, Housing Element program A.1-1 compels the City to comply with AB 1397 by allowing ministerial review of housing projects that meet certain criteria. This ordinance effectuates and implements program A.1-1 by specifying the parcels in which these provisions apply and encourages the development of affordable housing to meet targets established in the Housing Element. Additionally, program A.10-1 directs the City to update the Municipal Code to comply with State density bonus law. This ordinance effectuates and implements program A.10-1 by adopting State law by reference as it relates to density bonuses. For these reasons, the ordinance's amendments to the AGMC are consistent with the General Plan and necessary and desirable to implement the provisions thereof.

2. *Health, Safety, and Welfare; Illogical Land Use Pattern.* Adoption of the ordinance will not adversely affect the public health, safety, and welfare as it updates the AGMC to allow ministerial review of affordable housing projects on site that were previously evaluated for their ability to accommodate affordable housing and adopting State density bonus law by reference to ensure that the AGMC is consistent with the City's Housing Element. Finally, this ordinance will not result in an illogical land use pattern as it is not amending the City's zoning map.

3. *Consistency with Title 16.* This ordinance is consistent with the purpose and intent of AGMC Title 16 because while it does amend the type of permit required for certain affordable housing projects, it does not alter or revise the type or intensity of

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allowed uses and ensures that the provisions thereof are consistent with the City's Housing Element.

4. *Environmental.* See Section 2 above.

**SECTION 4. Code Amendment.** Section 16.52.270 is hereby added in its entirety to Title 16, Chapter 52 of the Arroyo Grande Municipal Code to read as follows:

**16.52.270 – By-Right Housing Projects**

- A. Purpose and Intent. It is the purpose of this section to facilitate the development of qualifying affordable housing units by implementing Program A.1-1 from the City of Arroyo Grande 2020-2028 Housing Element (“Program A.1-1”) and codifying the statutory requirements found in California Government Code section 65583.2(c) governing the same.
- B. Applicability. This section applies to the following sites listed in Program A.1-1: Assessor’s Parcel Numbers (APNs) 077-011-010, 077-204-028, 077-211-022, and 077-221-031.
- C. Effect. Residential projects allowed as a use by right under this section shall be exempt from discretionary review and any corresponding discretionary permits that would otherwise be required by Chapter 16.16 of this Code. For purposes of this section, “use by right” has the same meaning as provided in Government Code section 65583.2(i).
- D. Requirements. A proposed owner-occupied or multifamily residential project shall be allowed as a use by right under this section if all of the following requirements are satisfied:
  1. The project is located on a site listed in subsection (B) above.
  2. The project complies with all applicable objective City policies, development standards, and design standards established in the General Plan or Development Code. Where there is a conflict between other City requirements and this section, the provisions of this section apply.
  3. The minimum residential density is 20 dwelling units per acre.
  4. At least 20 percent of the units are affordable to lower income households in accordance with Government Code section 65583.2(c).

**SECTION 5. Code Amendment.** Chapter 16.82 of the Arroyo Grande Municipal Code is hereby amended to read as follows (additions shown in underline and deletions shown in ~~strikethrough~~):

**Chapter 16.82. – Density Bonuses**

16.82.010. - Purpose and Application. The purpose of this chapter is to ~~establish procedures for implementing~~ allow density bonuses and other affordable housing incentives to qualifying projects~~reference requirements~~, as set forth in California Government Code sections 65915 through Section 65918, as they may be amended, and to increase the production of affordable housing, ~~consistent with the city's goals, objectives, and policies.~~

16.82.020. - Density Bonus. The density bonuses and other affordable housing incentives required by State law, including but not limited to, Government Code section 65915 et seq., shall be available to applicants on the terms and conditions specified in State law.

**SECTION 6. Publication.** A summary of this ordinance shall be published in a newspaper published and circulated in the City of Arroyo Grande at least five days prior to the City Council meeting at which the proposed ordinance is to be adopted. A certified copy of the full text of the proposed ordinance shall be posted in the office of the City Clerk. Within 15 days after adoption of the ordinance, the summary with the names of those City Council members voting for and against the ordinance shall be published again, and the City Clerk shall post a certified copy of the full text of such adopted ordinance.

**SECTION 7. Effective Date.** This ordinance shall become effective 30 days after adoption.

**SECTION 8. Severability.** Should any provision of this ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this ordinance or the application of this ordinance to any other person or circumstance, and, to that end, the provisions hereof are severable. The City Council declares that it would have adopted all the provisions of this ordinance that remain valid if any provisions of this ordinance are declared invalid.

**SECTION 9. Records.** The documents and materials associated with this ordinance that constitute the record of proceedings on which the City Council's findings and determinations are based are located at 300 E. Branch Street, Arroyo Grande, CA 93420. The City Clerk is the custodian of the record of proceedings.

On motion by Council Member \_\_\_\_\_, seconded by Council Member \_\_\_\_\_, and by the following roll call vote to wit:

**AYES:**

**NOES:**

**ABSENT:**

the foregoing Ordinance was adopted this \_\_\_\_ day of \_\_\_\_\_, 2024.

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**CAREN RAY RUSSOM, MAYOR**

**ATTEST:**

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**JESSICA MATSON, CITY CLERK**

**APPROVED AS TO CONTENT:**

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**MATTHEW DOWNING, CITY MANAGER**

**APPROVED AS TO FORM:**

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**ISAAC ROSEN, CITY ATTORNEY**