



## REPORT TO CITY COUNCIL

**To:** Honorable Mayor and Members of the City Council

**From:** Jason Simpson, City Manager

**Prepared by:** Damaris Abraham, Assistant Community Development Director

**Date:** October 10, 2023

**Subject:** Planning Application No. 2023-28 (Zone Change No. 2023-03) – Amendment to the Lake Elsinore Municipal Code, Title 17 (Zoning) Updating Chapter 17.58 Density Bonuses and Adding Chapter 17.78 No Net Loss Program

### **Recommendation**

Introduce by title only and waive further reading of AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAKE ELSINORE, CALIFORNIA, APPROVING AMENDMENTS TO TITLE 17 OF THE LAKE ELSINORE MUNICIPAL CODE RELATED TO DENSITY BONUSSES AND ADDING A NO NET LOSS PROGRAM.

### **Planning Commission Action**

On September 19, 2023, the Planning Commission conducted a duly noticed public hearing and recommended approval of the Ordinance to the City Council with a 3-0 vote. No one spoke in opposition.

### **Background**

#### **State Density Bonus Law**

The State Density Bonus Law (Government Code Section 65915 et. seq.) was originally enacted in 1979. In summary, it encourages applicants to construct affordable housing units in exchange for an increase in density in a residential or mixed-use housing project, as long as the project includes a certain percentage of affordable units at specified levels of affordability. The City of Lake Elsinore implements the State Density Bonus Law with Chapter 17.58 of the Lake Elsinore Municipal Code (LEMC), which was adopted by the City Council on May 13, 2008 (Ordinance No. 1253).

Amendments to the state density bonus law from years prior to 2020, changed the City's obligations regarding granting density bonuses and concessions or incentives. The LEMC was not updated to reflect those responsibilities and contains provisions that have been superseded

by changes in state law. More recently, Assembly Bill 2345 (AB 2345) which became effective on January 1, 2021, further amended the Density Bonus Law to expand and enhance development incentives for projects with affordable and senior housing components.

The Lake Elsinore Housing Element, adopted on August 23, 2022, includes Program 6 that requires the City to maintain an affordable housing density bonus ordinance that establishes procedures for obtaining and monitoring density bonuses in compliance with state law. Program 6 requires the City to update the density bonus ordinance to remain in compliance with Government Code §65915 or update the City's zoning regulations to cross reference the most recent State laws governing density bonus provision.

#### Senate Bill 330 (No Net Loss)

On October 9, 2019, the Governor signed the Housing Crisis Act of 2019 (HCA) into law, commonly known as Senate Bill 330 (SB 330) to respond to the California housing crisis. Senate Bill (SB) 330, which became effective January 1, 2020, restricts the ability of cities and counties to make the following changes related to land designated or zoned for residential uses:

- Change the general plan land use designation, specific plan land use designation, or zoning of a parcel or parcels of property to a less intensive use;
- Reduce the intensity of land use within an existing general plan land use designation, specific plan land use designation, or zoning district below what was allowed under the land use designation and zoning ordinances in effect on January 1, 2018.

SB 330 provides that such changes can be made if the city either 1) obtains the Department of Housing and Community Development's approval, or 2) the city "concurrently changes the development standards, policies, and conditions applicable to other parcels within the jurisdiction to ensure that there is no net loss in residential capacity."

The purpose of this ordinance is to establish a means to approve changes to the general plan or specific plan land use designation or zoning of residential parcels to something less intense without creating a "net loss in residential capacity". This will be accomplished through the creation of a "unit bank" that will hold the residential unit development potential lost by land use or zoning changes. Future residential projects may apply to receive a housing capacity transfer from the unit bank in order to increase the maximum residential density for the development site.

#### Discussion

##### Proposed Revised Chapter 17.58 – Density Bonuses

The proposed revised Chapter 17.58 consists of six sections: Purpose, Definitions, Density Bonus and Incentive Law, Processing of density bonus request, Density bonus agreement, and Implementation.

Two sections, Section 17.58.030 (Density Bonus and Incentive Law) and Section 17.589.040 (Processing of density bonus request) incorporate by reference the provisions of the State Density Bonus Law (Government Code Section 65915 et. seq.). Through its incorporation by reference of

the State Density Bonus Law, the proposed Chapter 17.58 contains provisions that will assure that it complies with AB 2345 and that it will continue to remain in compliance even if the law is changed in the future.

#### Proposed Chapter 17.78 – No Net Loss Program

The proposed Chapter 17.78 allows for transfers of housing capacity between sites in the City. Chapter 17.78 will create a "unit bank" that will receive the residential units being eliminated as a result of any change in zone from a residential use to a less intensive residential or non-residential use. A future residential development project may then submit an application for a transfer of any dwelling units available in the unit bank in order to increase the maximum residential density applicable to that project site.

For example, if the City Council changes the General Plan designation of a two-acre parcel from Low-Medium Density Residential (with R-1 zoning) to General Commercial (with C-2 zoning) the maximum number of residential units that could have been built under the Low-Medium Density Residential designation (approximately 12 dwelling units) will be transferred into the unit bank. A subsequent development project in a specified residential zone could then apply for a density transfer to receive some or all of the units in the unit bank. Once the units in the unit bank are depleted, proposed projects would not be eligible for a density transfer under this program.

A Density Transfer Agreement will be required in conjunction with a proposed project to be eligible to receive a density transfer under this program. Both the Planning Commission and City Council will review the proposed Density Transfer Agreement.

#### Environmental Determination

The proposed amendments to the Lake Elsinore Municipal Code are exempt from the California Environmental Quality Act (Cal. Publ. Res. Code §§21000 et seq. "CEQA") and the State CEQA Guidelines (14. Cal. Code Regs §§15000 et seq.), specifically pursuant to Sections 15060(c)(2), 15060(c)(3), and 15061(b)(3) of the State CEQA Guidelines because it will not result in a direct or reasonably foreseeable indirect physical change in the environment, because there is no possibility that it may have a significant effect on the environment, and because it is not a "project" as that term is defined in Section 15378 of the State CEQA Guidelines.

#### Public Notice

Notice of the hearing for this zoning code amendment has been published in the Press-Enterprise newspaper. As of the writing of this report, no written comments concerning this application have been received by staff.

#### Fiscal Impact

Costs have been incurred for staff time to research, draft and process the ordinance. No increase in expenditures or revenues are anticipated as a part of this Municipal Code Amendment.

**Attachments**

Attachment 1- ZC Ordinance

Exhibit A - Chapter 17.58 – Density Bonuses

Exhibit B - No Net Loss Program

Attachment 2 - Notice of Public Hearing

