

The following Affordable Housing Overlay ordinance was adopted by the City of Oakley, CA and is provided as an example which can be used as a base for the creation of a local Affordable Housing Overlay ordinance. It is recognized that there is no single ordinance that can be added to community regulations without some tailoring, therefore revisions to the text within this ordinance is encouraged.

Example Model Ordinance

9.1.410 Affordable Housing Overlay District (AHO).

a. **Purpose and Intent.** The Affordable Housing Overlay (AHO) District serves to implement the housing element goal of providing new housing and addressing affordable housing needs within the City of Oakley. The AHO applies only to areas zoned Multiple Family Residential (M-9, M-12, M-17) and where an applicant has applied for and the City Council has approved a density bonus in accordance with Section 9.1.412 to meet the City Regional Housing Needs Assessment. It allows housing densities that exceed the maximum units per acre otherwise allowed in a zoning district, if a development meets the State density bonus criteria, as implemented, located in Section 9.1.412. Specifically, the base density used to calculate the density bonus is twenty-four (24) dwelling units per acre. The AHO also modifies the Multiple Family Residential development standards to complement higher density housing projects. All developments within the AHO shall be consistent with the City of Oakley Residential Design Guidelines and Multifamily Residential Design Guidelines (pending).

b. Affordability Requirements.

- 1) Development within the AHO District shall include housing units in the following categories and shall remain at those affordability levels for a minimum of thirty (30) years:
 - a) Very low income household: any household with an income level less than equal to fifty percent (50%) of the Contra Costa County median income as determined by the California Department of Housing and Community Development (HCD) and/or the Federal Department of Housing and Urban Development (HUD);
 - b) Low income household: any household with an income level between fifty percent (50%) and eighty percent (80%) of the Contra Costa County median income as determined by HCD or HUD.
- 2) If a development has both affordable and market rate units, then the affordable units shall be constructed at a rate consistent with the construction of market rate units and shall be mixed throughout the development. Project phasing must be done in a manner that is proportionate to the overall mix of affordability levels.
- 3) Prior to the approval of the rezoning or the issuance of a building permit, whichever is earlier, the applicant shall execute an agreement with the City of Oakley and any other documents necessary to ensure the continued affordability of the affordable units for the thirty (30) year minimum time frame in a form acceptable to the City Council.

c. Development Standards.

1) Where an applicant or developer elects to apply to utilize the AHO District over the underlying zoning, the development standards listed in Table 1 of this section, where applicable, shall apply. These development standards shall apply to projects requiring administrative approval and for those requiring a conditional use permit approval. Where conditional use permit approval is required, Section 9.1.1602 shall apply in addition to this section. Where conditional use permit approval is required, the development standards may be modified if deemed appropriate by the City Council. In addition, the proposed development shall comply with the remaining provisions of this chapter, including, but not limited to, the site density requirements set forth in subsection (d) of this section and design criteria set forth in subsection (e) of this section.

2) Table 1 sets forth development standards for multifamily development, which for the purposes of this section is defined as any residential development with three or more units on a single lot, within the Affordable Housing Overlay District.

Table 1: Development Standards for Multifamily Construction within the Affordable Housing Overlay (AHO) District	
Subject	Standard
Base Density	24 dwelling units per acre
Density Bonus	Per State Law up to 35%, or 32.4 dwelling units per acre
Building Site Coverage (combined maximum)	40%
Front Setback (minimum)	15 feet for two stories, 20 feet for three or more stories
Rear Setback (minimum) ²	15 feet for two stories, 20 feet for three or more stories
Side Setback ²	8 feet for two stories, 12 feet for three or more stories
Distance Between Buildings (minimum)	20 feet for two stories, 25 feet for three or more stories
Height Limit (maximum)	42 feet
Wall	A minimum six-foot-high solid masonry/block wall shall be required around the perimeter of all housing developments
Parking Requirements (minimum)	One Bedroom: one on-site parking space ¹
	Two – Three Bedrooms: one and one-half on-site parking spaces ¹
	Four or More Bedrooms: two and one-half on-site spaces (Government Code Section 65915(p)) ¹

Table 1: Development Standards for Multifamily Construction within the Affordable Housing Overlay (AHO) District

Subject	Standard
1	If the total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number. For purposes of this section, a subdivision may provide on-site parking through tandem parking or uncovered parking, but not through on-street parking.
2	10 feet for any structure (not a dwelling unit) up to 15 feet in height.

d. **Development Incentives.** The City shall provide a density bonus and additional incentive(s) for qualified housing developments upon the written request of a developer, unless the City makes the written findings set forth in Government Code Section 65915(d)(1).

1) For qualifying projects, the City will allow exceptions in the development standards set forth in subsection (c) of this section for projects within the AHO District to allow more flexibility in design and development by right with no further discretionary review, and to expedite project approval.

2) The City will provide other funding or incentives to qualifying affordable housing projects, to meet the City RHNA allocation, such as providing financial assistance or land write-downs when feasible, providing expedited processing, identifying grant and funding opportunities and providing support to developers in seeking funding.

3) The need for incentives will vary for different housing developments. Therefore, the allocation of additional incentives shall be determined on a case-by-case basis. The additional incentives may include, but are not limited to, any of the following:

- a) A reduction of site development standards or a modification of zoning code or architectural design requirements which exceed the minimum applicable building standards;
- b) Allow mixed use development (commercial and residential) so long as it does not conflict with the land use designations in the General Plan land uses;
- c) Other regulatory incentives or concessions proposed by the developer or the City which result in identifiable cost reductions or avoidance;
- d) Waived, reduced, or deferred planning, plan check or construction permit fees;
- e) The City may offer an equivalent financial incentive in lieu of granting a density bonus and an additional incentive(s). The value of the equivalent financial incentive shall equal at least the land cost per dwelling unit savings that would result from a density bonus and must contribute significantly to the economic feasibility of providing the target units pursuant to this chapter.

e. **Design Criteria.** The following design guidelines shall be applicable to all parcels within the AHO District. All proposed projects should be consistent with the City of Oakley Residential Design Guidelines and Multifamily Residential Design Guidelines (pending). The design guidelines will be enforced through review and approval by the Community Development Director (CDD), or his/her designee, in case of an administrative-level approval, or by the City Council in the event a conditional use permit is required.

- 1) Buildings shall be designed to frame views of the hills, vineyards and other landscape features;
- 2) Natural landscape features such as creeks, wetlands and heritage trees shall be incorporated into the site design. All development shall be subject to Chapter 4.31, and Sections 9.1.1108, 9.1.1110 and 9.1.1112;
- 3) Development shall be clustered on each site so as to minimize development footprints, preserve undeveloped land, and avoid areas with natural and visual resources;
- 4) Building materials and colors should promote harmony, as well as interest in the neighborhood. Architectural style should utilize a limited palette of compatible colors, avoiding excessive different materials and colors that detract more than enhance the overall appearance;
- 5) Compatible color schemes should be used on adjacent buildings and structures;
- 6) Roof forms, materials, doors, windows and other architectural features or historic or traditional houses near the project shall be referenced in the design of the new development;
- 7) A detailed landscaping plan, including planting details, shall be submitted for review and approval prior to the issuance of building permits. The plan shall indicate the names and locations of all plant materials to be used, along with the method of maintenance. Plant materials shall be purchased locally when practical. Drought-tolerant plants are encouraged, when feasible. The project shall comply with the City of Oakley Water Efficient Landscape Ordinance and all Stormwater C-3 requirements;
- 8) The design of fences and screening shall be consistent with Sections 9.1.1108, 9.1.1110 and 9.1.1112;
- 9) All exterior lighting, including landscape lighting, shall be shielded and directed downward and shall be located as low to the ground as possible. Low-level lighting shall be utilized in parking areas at multifamily sites rather than high-intensity light standards;
- 10) All new housing units shall be designed so as to minimize their visual impacts. Visual impacts shall be minimized through landscaping, grading, berms, appropriately designed fences and other screening devices;
- 11) The use of shared driveways and alleyways with detached garages may be utilized;
- 12) Play spaces for children shall be secure and visible;
- 13) Multifamily projects shall follow the guidelines as described herein and where appropriate the guidelines in the Residential Design Guidelines and Multifamily Residential Design Guidelines (pending);
- 14) Architectural design concepts shall provide for a transition in scale between multifamily and any neighboring single-family residential development. Where adjacent to existing detached single-family development, the outermost portions of the multifamily buildings shall be limited to two stories within fifty (50) feet of the common boundary and to three stories from fifty (50) feet

to seventy-five (75) feet of the common boundary. Beyond the seventy-five (75) foot distance, structures up to forty-two (42) feet high (and portions thereof) are permitted. The setbacks in Table 1 above require a staggered setback for third story and above to reduce the overall bulk and scale of larger projects adjacent to single-family residential developments;

15) Multifamily and mixed use projects shall be designed to reduce the perceived mass, scale, and form of the overall development through use of varying roof heights, setbacks, and wall planes. This shall include the use of:

- a) Recessed facades and articulations in the building mass;
- b) Varied roof heights, forms, masses, shapes, and/or materials to create variations between individual buildings;
- c) Staggered and jogged placement of individual units (e.g., the units should not be aligned along a single plane that results in a large "wall" on any single side of the building); and
- d) A variety of building orientations;

16) The perceived architectural scale of multifamily buildings of three or more stories shall be reduced through the proper use of window patterns, roof overhangs, awnings, moldings, fixtures, the use of darker or subdued colors contrasting with lighter colors, upper story setbacks, building and roof articulation, and other details that vary the exterior of the building and result in a staggered or scaled appearance;

17) Trash enclosures (solid waste and recycling), storage, and other accessory elements shall be designed as integral parts of the architecture;

18) Parking lots shall be screened by shade trees, landscaping or buildings. Parking shall be unobtrusive and not disrupt the quality of open spaces and pedestrian environments. Access to the property and circulation systems shall be safe and convenient for pedestrians, cyclists and vehicles;

19) Multifamily developments shall provide both common and private open spaces;

20) Multifamily projects shall provide common spaces that are physically defined and socially integrated into the site plan as a gathering place;

21) New projects will be required to provide, as part of the common space, the installation of a play structure and necessary safety equipment.

f. **Approval Process.** Administrative-level approval shall be given to projects meeting the appropriate affordability requirements identified in subsection (b) of this section, development standards set forth in subsection (c) of this section, and all other applicable sections of this chapter. For projects that require a subdivision map or a conditional use permit, the developer shall submit an application and all required fees to the Planning Department.

g. **Utilities.** Except as otherwise provided, no permits to develop housing in the AHO District shall be issued without evidence of adequate sewer and water service to serve the proposed development, as evidenced by a letter from the sewer and water service providers.

(Sec. 2, Ordinance No. 15-16, adopted July 12, 2016; Sec. 2, Ordinance No. 12-10, adopted September 14, 2010)