
Chapter 20.32 – Density Bonus

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20.32.010 – Purpose

The purpose of this Chapter is to provide a means for granting density bonuses and incentives in compliance with Government Code Sections 65915 through 65917 as the same may be amended from time to time. This Chapter provides density bonuses and incentives for the development of housing that is affordable to lower-, low-, and moderate-income households and senior citizens. If there is a conflict between any provision and State law, State law shall control.

20.32.020 – Eligibility for Density Bonus and Incentives

In order to be eligible for a density bonus and other incentives as provided by this Chapter, a proposed housing development shall comply with the following requirements and satisfy all other applicable provisions of this Zoning Code, except as otherwise provided by this Chapter.

- A. Eligibility requirements.** A housing development proposed to qualify for a density bonus shall contain 5 or more dwelling units and shall include at least one of the following:
1. A minimum of 5 percent of the total number of proposed units are for very low-income households;
 2. A minimum of 10 percent of the total number of proposed units are for low-income households;
 3. A senior citizen housing development or a mobile home park that limits residency based on age requirements for housing older persons in compliance with Civil Code Sections 798.76 or 799.5; or
 4. A minimum of 10 percent of the total dwelling units in a common interest development as defined in Civil Code Section 1351 are for persons and families of moderate income provided that all units in the development are offered to the public for purchase.

- B. Condominium conversion projects.** A condominium conversion project for which a density bonus is requested shall satisfy the eligibility requirements set forth in Government Code Section 65915.5.
- C. Units not eligible for bonuses or incentives.** When affordable housing is required to be provided under the provisions of Municipal Code Title 19 the number of units required to be provided under Title 19 shall not count towards the number of units necessary to qualify for a density bonus under the provisions of this Chapter.

20.32.030 – Allowed Density Bonuses

- A. Amount of density bonus.** A housing development that complies with the eligibility requirements of Section 20.32.030, above, shall be entitled to density bonuses as follows, unless a lesser percentage is proposed by the applicant.
- 1. Bonus for units for very low-income households.** A housing development that is eligible for a bonus in compliance with the criteria in Subsection 20.32.020.A.1 (5 percent of units for very low-income households) shall be entitled to a density bonus calculated as follows.

**TABLE 3-6
VERY LOW-INCOME**

Percentage of Base Units Proposed	Density Bonus Percentage
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35

- 2. Bonus for units for low-income households.** A housing development that is eligible for a bonus in compliance with the criteria in Subsection 20.32.020.A.2 (10 percent of units for low-income households) shall be entitled to a density bonus calculated as follows.

**TABLE 3-7
LOW-INCOME**

Percentage of Base Units Proposed	Density Bonus Percentage
10	20
11	21.5
12	23
13	24.5
14	26
15	27.5
17	30.5
18	32
19	33.5
20	35

- 3. Bonus for moderate income units in common interest development.** A housing development that is eligible for a bonus in compliance with the criteria in Subsection 20.32.020.A.4 (10 percent of units in a common interest development for persons and families of moderate-income) shall be entitled to a density bonus calculated as follows.

**TABLE 3-8
MODERATE-INCOME**

Percentage of Base Units Proposed	Density Bonus Percentage
10	5
11	6
12	7
13	8
14	9
15	10
16	11
17	12
18	13
19	14
20	15
21	16
22	17
23	18
24	19
25	20
26	21
27	22
28	23
29	24
30	25
31	26
32	27
33	28
34	29
35	30
36	31
37	32
38	33
39	34
40	35

4. **Bonus for senior citizen housing development.** A housing development that is eligible for a bonus in compliance with the criteria in Subsection 20.32.020.A.3 (senior citizen development or mobile home park) shall be entitled to a density bonus of 20 percent of the number of senior housing units..
5. **Bonus for land donation.** When an applicant for a residential development agrees to donate land to the City for very low-income households, the applicant shall be entitled to a density bonus for the entire market rate development, provided that nothing in this Subsection shall be construed to affect the authority of the City to require a developer to donate land as a condition of development.
- a. **Bonus.** The applicant shall be entitled to an increase above the maximum allowed residential density under the General Plan Land Use Element and zoning designation for the entire market rate development as follows.

**TABLE 3-9
VERY LOW-INCOME**

Percentage of Base Units Proposed	Density Bonus Percentage
10	15
11	16
12	17
13	18
14	19
15	20
16	21
17	22
18	23
19	24
20	25
21	26
22	27
23	28
24	29
25	30
26	31
27	32
28	33

Percentage of Base Units Proposed	Density Bonus Percentage
29	34
30	35

- b. Eligibility for land donations.** An applicant shall be eligible for a density bonus if all of the following conditions are met ;
- (1) The applicant donates and transfers the land no later than the date of approval of the final subdivision map, parcel map, or residential development application;
 - (2) The developable acreage and zoning classification of the land being donated are sufficient to permit construction of units in an amount not less than 10 percent of the number of market rate units of the proposed development;
 - (3) The donated land is at least one acre, or of sufficient size to permit development of at least 40 units, has the appropriate General Plan designation, is appropriately zoned with standards for development at the density described in Government Code Section 65583.2.c.3 and is or will be served by adequate public facilities and infrastructure. The land shall have appropriate zoning and development standards to make the development of the affordable units feasible;
 - (4) No later than the date of approval of the market rate residential development, the donated land shall have all of the discretionary permits and approvals, other than Building Permits, necessary for the development;
 - (5) The donated land and the affordable units shall be restricted to very low-income households and subject to a deed restriction ensuring continued affordability of the units consistent with Section 20.32.080 (Continued Availability), below, which shall be recorded on the property at the time of dedication;
 - (6) The land is donated to the City or to a housing developer approved by the City; and
 - (7) The donated land shall be within the boundary of the proposed development or, if the City agrees, within one quarter mile of the boundary of the proposed market rate development.
 - (8) A proposed source of funding for the very low-income units shall be identified not later than the date of approval of the final subdivision map, parcel map, or residential development application.

6. Density bonus for affordable units and land. The increase in the Table 3-9 (Low-Income), above, shall be in addition to any increase in density required by Subsections A.1 through A.4 (above), up to a maximum combined mandated density increase of 35 percent if an applicant seeks both the increase required in compliance with this Subsection as well as the bonuses provided by Subsections A.1 through A.4, above.

B. Density bonus calculations.

1. Fractional units. The calculation of a density bonus in compliance with this Section that results in fractional units shall be rounded up to the next whole number, as required by State law.

2. Mixed income development. If the applicant desires to develop a density bonus project available to a mix of income levels, the Director shall determine the amount of density bonus to be granted up to a maximum of 35 percent.

C. Requirements for amendments or discretionary approval. The granting of a density bonus shall not be interpreted to require a General Plan amendment, Zoning Map amendment, or other discretionary approval.

20.32.040 – Parking Requirements in Density Bonus Projects

A. Applicability. This Section applies to a development that meets the requirements of Section 20.32.020 (Eligibility for Density Bonus and Incentives), above, but only at the request of the applicant. An applicant may request additional parking incentives beyond those provided in this Section in compliance with Section 20.32.050 (Allowed Incentives), below.

B. Number of parking spaces required.

1. At the request of the applicant, the City shall require the following vehicular parking ratios for a project that complies with the requirements of Section 20.32.020 (Eligibility for Density Bonus and Incentives), above, inclusive of handicapped and guest parking:

a. Zero to one bedroom: One on-site parking space per unit; or

b. Two or more bedrooms: Two on-site parking spaces per unit

2. 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.

C. Location of parking. For purposes of this Section, a development may provide on-site parking through uncovered or tandem parking, but not through on-street parking.

20.32.050 – Allowed Incentives

A. Applicant request and City approval. An applicant for a density bonus may also submit a proposal that includes any of the incentives listed in Subsection C. (Types of incentives), below. The applicant shall file the request concurrently with the application for project approval. The applicant shall show that an incentive is necessary to make the housing units economically feasible. When an applicant makes a request for an incentive, the Council shall grant the request unless either of the following findings is made, based on substantial evidence:

1. The incentive is not required in order to provide affordable housing costs as defined in Health and Safety Code Section 50052.5, or for rents for the targeted units to be set as specified in Section 20.32.080.B. (Affordable cost), below;
2. The incentive would have a specific adverse impact, as defined in Government Code Section 65589.5(d)(2), upon public health and safety or the physical environment, or on any real property listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low and moderate income households; or
3. The incentive would be contrary to State or federal law.

B. Number of incentives. The Council shall grant the following number of incentives, except as provided in Subsection A, above.

1. **One incentive.** One incentive for a project that includes at least 10 percent of the total units for low income households, at least 5 percent for very low income households, or at least 10 percent for persons and families of moderate income in a common interest development.
2. **Two incentives.** Two incentives for a project that includes at least 20 percent of the total units for low income households, at least 10 percent for very low income households, or at least 20 percent for persons and families of moderate income in a common interest development.
3. **Three incentives.** Three incentives for a project that includes at least 30 percent of the total units for low income households, at least 15 percent for very low income households, or at least 30 percent for persons and families of moderate income in a common interest development.

C. Type of incentives. For the purposes of this Chapter, incentive means any of the following:

1. A reduction in the site development standards (e.g., site coverage, setbacks, increase height up to the maximum allowed, reduced lot sizes, and/or parking requirements (see also Section 20.32.040 [Parking Requirements in Density Bonus Projects]), or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission in compliance with Health and Safety Code Section 18901 et seq., that would otherwise be required, that results in identifiable, financially sufficient, and actual cost reductions;

2. Approval of mixed-use zoning in conjunction with the housing development, if nonresidential land uses will reduce the cost of the housing development, and the nonresidential land uses are compatible with the housing project and the existing or planned development in the area where the project will be located;
3. Other regulatory incentives proposed by the applicant or the City that will result in identifiable, financially sufficient, and actual cost reductions; and/or
4. A direct financial contribution granted by the Council, at its sole discretion.

D. Effect of incentive. The granting of an incentive shall not be interpreted to require a General Plan amendment, Zoning Map amendment, or other discretionary approval.

20.32.060 – Incentives for Housing with Child Care Facilities

A residential development that complies with the income requirements of Subsections 20.32.020.A, and B, above, and also includes a child care facility, other than a large or small family day care home, that will be located on the same site as the development, shall be eligible for the following incentives in addition to the incentives provided for the affordable housing.

A. Incentives. The City shall grant a housing development that includes a child care facility either of the following incentives:

1. An amount of residential floor area equal to or greater than the floor area of the child care facility; or
2. An incentive that contributes to the economic feasibility of the child care facility (e.g., reduction of development standards, reduced parking requirements, monetary contribution) as provided in Subsection 20.32.050.C, above.

B. Requirements to qualify for incentives. The City shall require, as a condition of approving the housing development, that:

1. The child care facility shall remain in operation for a period of time that is as long as or longer than the period of time during which the density bonus units are required to remain affordable in compliance with Section 20.32.080 (Continued Availability), below; and
2. Of the children who attend the child care facility, the children of very low income households, low income households, or families of moderate income shall equal a percentage that is equal to or greater than the percentage of dwelling units that are required for very low income households, lower income households, or families of moderate income in compliance with Subsection 20.30.020.A (Eligibility requirements), above.

C. Incentive not required. The City shall not be required to provide a density bonus for a child care facility if it finds, based upon substantial evidence, that the community has adequate child care facilities.

20.32.070 – Design and Distribution of Affordable Units.

Affordable units shall be designed and distributed within the residential development as follows:

- A. Number of bedrooms.** Affordable units shall reflect the range of numbers of bedrooms provided in the residential development project as a whole;
- B. Comparable quality and facilities.** Affordable units shall be comparable in the facilities provided (e.g., laundry, recreation, etc.) and in the quality of construction and exterior design to the market-rate units;
- C. Size.** Affordable units may be smaller and have different interior finishes and features than the market-rate units; and
- D. Location.** Affordable units shall be dispersed throughout the residential development, unless clustering is allowed by the review authority.

20.32.080 – Continued Availability

The units that qualified the housing development for a density bonus and other incentives shall continue to be available as affordable units in compliance with the following requirements as required by Government Code Section 659158). See also Section 20.32.090 (Occupancy and Resale of Common Interest Units).

- A. Duration of affordability.** The applicant shall agree to and the City shall ensure the continued availability of the units that qualified the housing development for a density bonus and other incentives. The continued affordability of all very low- and low-income qualifying units shall be maintained for 30 years, or a longer time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program.
- B. Affordable costs.** The rents and owner-occupied costs charged for the housing units shall not exceed the following amounts during the period of continued availability required by this Section:
 - 1. Rental units.** Rents for density bonus units shall be set at an affordable rent as defined in Health and Safety Code Section 50053; and
 - 2. Owner-occupied units.** Owner-occupied units shall be available at an affordable housing cost as defined in Health and Safety Code Section 50052.5.

20.32.090 – Occupancy and Resale of Common Interest Units.

- A. Occupancy.** An applicant shall agree to, and the City shall ensure that the initial occupants of moderate income units that are directly related to the receipt of the common interest density bonus are persons and families of moderate income and that the units are offered at an affordable housing cost, as provided in this Chapter.

- B. Resale.** The City shall enforce an equity sharing agreement for the resale of affordable common interest units, unless it would be in conflict with the requirements of another public funding source or law. The following requirements apply to the equity sharing agreement:
1. Upon resale, the seller of the unit shall retain the value of any improvements, the down payment, and the seller's proportionate share of appreciation; and
 2. The City shall recapture any initial subsidy and its proportionate share of appreciation, which shall then be used within 5 years for any of the purposes described in Health and Safety Code Section 33334.2(e) that promote home ownership. For the purposes of this Section:
 - a. The City's initial subsidy shall be equal to the fair market value of the home at the time of initial sale, minus the initial sale price, plus the amount of any down payment assistance or mortgage assistance. If upon resale the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value;
 - b. The City's proportionate share of appreciation shall be equal to the ratio of the initial subsidy to the fair market value of the home at the time of initial sale; and
 - c. The initial subsidy shall include any incentives granted by the City and shall be equal to the monetary equivalent of the incentives.

20.32.100 – Affordable Housing Agreement

An affordable housing agreement shall be executed in a recordable form prior to the issuance of a Building Permit for any portion of a residential development project subject to the requirements of this Chapter. The form of the agreement shall be similar in content to the agreement specified in Section 20.34.100 (Affordable Housing Agreement) and as required by the City Attorney.

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