

Introduced by: \_\_\_\_\_

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

**AN ORDINANCE OF THE CITY OF PASADENA AMENDING THE DENSITY BONUS PROVISIONS OF TITLE 17 (THE ZONING CODE) TO COMPLY WITH RECENT CHANGES IN STATE LAW REGARDING DENSITY BONUS**

The People of the City of Pasadena ordain as follows:

**SECTION 1.** This ordinance, due to its length and corresponding publication costs will be published by title and summary as permitted in Section 508 of the Charter of the City of Pasadena. The approved summary of this ordinance is as follows:

**“Summary**

Ordinance No. \_\_\_\_\_ amends the Zoning Code of the City of Pasadena to implement various changes in state law (specifically Government Code Section 65915) regarding density bonuses. This ordinance also provides a process for the granting of development standard concessions or incentives, as well as waivers or modifications, when specific findings are made.

Ordinance No. \_\_\_\_\_ shall take effect 30 days from its publication.”

**SECTION 2.** Title 17, Article 4, Chapter 17.42 is amended by:

a. Renaming the chapter as follows:

**“Chapter 17.42 – Inclusionary Housing Requirements”.** (The header for each page shall be renamed accordingly.)

b. Repealing Section 17.42.100 - Density Bonus and Incentive Program.

c. By renumbering Section 17.42.110 to be Section 17.42.100; Section 17.42.120 to be Section 17.42.110; and Section 17.42.130 to be Section 17.42.120.

**SECTION 3.** Title 17, Article 4 is amended by adding a new Chapter 17.43 as contained in Exhibit 1 attached hereto and incorporated by this reference.

**SECTION 4.** Title 17, Article 4, Chapter 17.46, Section 17.46.020, Subsection K, Paragraph 1, Subparagraph b as follows:

“b. If a project contains affordable housing in conjunction with a density bonus in Compliance with Chapter 17.43 (Density Bonus), then approval shall be through the Concessions and Other Incentives process (17.43.050).”

**SECTION 5.** Title 17, Article 4, Chapter 17.46, Section 17.46.040, Table 4-6 is amended as shown in Exhibit 2, attached hereto and incorporated by this reference.

**SECTION 6.** The City Clerk shall certify the adoption of this ordinance and shall cause this ordinance to be published by title and summary.

**SECTION 7.** This ordinance shall take effect 30 days from its publication.

Signed and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

\_\_\_\_\_  
Bill Bogaard  
Mayor of the City of Pasadena

I HEREBY CERTIFY that the foregoing ordinance was adopted by the City Council of the City of Pasadena at its meeting held this \_\_\_\_\_ day of \_\_\_\_\_ 2006, by the following vote:

AYES:

NOES:

ABSENT:

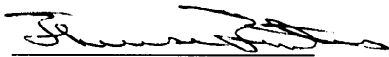
ABSTAIN:

Date Published:

---

Jane L. Rodriguez, CMC  
City Clerk

Approved as to form:



Theresa E. Fuentes  
Deputy City Attorney

**EXHIBIT 1**

## **CHAPTER 17.43 – DENSITY BONUS, WAIVERS AND INCENTIVES**

### **Sections:**

- 17.43.010 - Purpose of Chapter
- 17.43.020 - Applicability
- 17.43.030 - Definitions
- 17.43.040 - Density Bonus Allowance
- 17.43.050 - Concessions and Other Incentives
- 17.43.060 - Waiver of Development Standards
- 17.43.070 - Floor Area Bonus and Concessions for Child Day-Care Center
- 17.43.080 - Bonus for Donation of Land
- 17.43.090 - Alternative Parking Standards

### **17.43.010 - Purpose of Chapter**

This Chapter establishes procedures to implement the State's Density Bonus law as set forth in Government Code Section 65915. The incentives in this Section are used by the City as a means of meeting its commitment to encouraging the provision of affordable housing to all economic groups living within the City.

### **17.43.020 - Applicability**

The provisions of this Section apply only to multi-family residential and mixed-use development projects consisting of five or more dwelling units not including units granted as a density bonus.

### **17.43.030 - Definitions**

The following definitions shall apply to this chapter.

#### **A. Density bonus.**

A density bonus is an increase in density above the otherwise maximum allowable residential density under this Title and the Land Use Element of the General Plan as of the date the development application for the project is deemed complete. The amount of the density bonus to which the applicant is entitled shall vary according to the amount by which the percentage of affordable dwelling units meets the percentage established in the following section. When calculating the number of density bonus units allowed, any fraction of a residential unit shall be counted as a whole unit. An applicant may elect to accept a lesser percentage of density bonus units. An applicant may not seek a density bonus greater than that provided in this Chapter or by state law.

#### **B. Concessions or other incentives.**

Concessions or other incentives include a reduction in a site development standard or modification of another Zoning Code requirement or design requirement that results in identifiable, financially sufficient, and actual cost reduction; or, approval of mixed-use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if the commercial, office,

industrial, or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located; or other concession or regulatory incentive that results in identifiable, financially sufficient, and actual cost reduction, as determined by the City in its sole discretion. A concession or other incentive does not include additional density beyond that allowed in this Chapter.

**C. Development standard.**

For purposes of this chapter, a development standard includes a site or construction condition that applies to a residential development pursuant to any ordinance, general plan element, specific plan, charter amendment, or other local condition, law, policy, resolution, or regulation. A development standard subject to waiver does not include additional density beyond that allowed in this Chapter.

**17.43.040 - Density Bonus Allowance**

**A. Density bonus requirement.** A request for a density bonus shall not require any discretionary approval by the City. A request for a density bonus pursuant to this Chapter shall only be granted if an applicant seeks and agrees to construct one of the following:

1. At least 5 percent of the units are dedicated to very low-income households;
2. At least 10 percent of the units are dedicated to low-income and very low-income households;
3. At least 10 percent of the units are dedicated to moderate-income households and are available to the general public for sale; or
4. At least 35 dwelling units are available exclusively to persons aged 55 and older and to those residing with them.

**B. Density bonus of up to 35 percent.** In calculating the number of units required for very low, low, and moderate-income households, the density bonus units shall not be included.

1. The density bonus for very low-income units shall be calculated as follows.

**Table 4-3 - Increase in Allowable Density for Very Low-Income Units**

Percentage of Very Low-Income Units	Percentage Density Bonus
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35

2. The density bonus for low-income units shall be calculated as follows.

**Table 4-3.1 - Increase in Allowable Density for Low-Income Units**

<b>Percent Low-Income Units</b>	<b>Percentage Density Bonus</b>
10	20
11	21.5
12	23
13	24.5
14	26
15	27.5
16	29
17	30.5
18	32
19	33.5
20	35

3. The density bonus for moderate-income ownership units shall be calculated as follows.

**Table 4-3.2 - Increase in Allowable Density for Moderate-Income Ownership Units**

<b>Percentage Moderate-Income Units</b>	<b>Percentage Density Bonus</b>
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. The density bonus for a project for persons aged 55 and older, and those residing with them, shall be 20 percent.

**C. Density bonus of up to 50 percent in Central District.** Projects in Central District subdistricts CD-1, CD-2, CD-3, and CD-4 may be granted a density bonus of up to 50 percent above the maximum density, according to the following formula: for each additional percentage point of very low income units above 11 percent, a bonus of 2.5 percent may be granted, for each additional percentage point of low-income units above 20 percent, a bonus of 1.5 percent may be granted, and for each percentage point of moderate-income units above 40 percent, a bonus of one percent may be granted. A Conditional Use Permit (Section 17.61.050) shall be required for any density bonus exceeding 35 percent.

**D. Bonuses not combined.** The bonuses that are available under this section shall not be combined.

**17.43.050 – Concessions and Other Incentives**

**A. Concessions and other incentives.** An applicant may request one or more concessions or other incentives as follows.

1. One concession or other incentive for projects that include at least 5 percent of the units for very low-income households, 10 percent of the units for low-income households, or 10 percent of the units for moderate-income households when the units are available for sale to the public.
2. Two concessions or other incentives for projects that include at least 10 percent of the units for very low-income households, 20 percent of the units for low-income households, or 20 percent of the units for moderate-income households when the units are available for sale to the public.
3. Three concessions or other incentives for projects that include at least 15 percent of the units for very low-income households, 30 percent of the units for low-income households, or 30 percent of the units for moderate-income households when the units are available for sale to the public.
4. Affordable Housing Concession Permit. An applicant may submit an application for an Affordable Housing Concession Permit, for approval of a request for the concessions and other incentives.

**B. Application requirements.** An applicant for an Affordable Housing Concession Permit shall be filed in compliance with Chapter 17.60 (Application Filing and Processing). The application shall be accompanied by the information identified in the Department handout for the Affordable Housing Concession application, including the specific economic information described in the handout.



- C. Procedure.** The procedure for an Affordable Housing Concession Permit shall be the same as for a Minor Variance (Section 17.61.080.C.3) Affordable Housing Concession Permits may be granted with approval by the Hearing Officer. The Hearing Officer may:
1. Approve the concession and/or other incentive described in application for the Affordable Housing Concession Permit.
  2. Deny the concession and/or other incentive described in the application for the Affordable Housing Concession Permit.
  3. Approve one or more concession and/or other incentives and deny one or more other concessions and/or incentives, if more than one concession or other incentives is described in the application for the Affordable Housing Concession Permit.
- D. Findings.** A concession or other incentive shall be approved upon making the following findings.
1. The concession or incentive is required in order for the designated units to be affordable.
  2. The concession or incentive would not have a specific adverse impact on public health, public safety, or the physical environment, and would not have an adverse impact on a property that is listed in the California Register of Historical Resources, and for which there is no feasible method to satisfactorily mitigated or avoid the specific adverse impact, or adverse impact, without rendering the development unaffordable to low- and moderate-income households. A specific adverse impact is a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

### 17.43.060 – Waiver of Development Standards

- A. Waiver of Development Standards.** If compliance with a development standard would preclude construction of a residential or mixed-use project utilizing a density bonus, and concession or incentive, pursuant to this Chapter, the applicant may submit a proposal for waiver or reduction of the development standard. The applicant shall show that the waiver or reduction of the development standard is necessary to make the housing units economically feasible.
- B. Application requirements.** An applicant for a Waiver of a Development Standards Permit shall be filed in compliance with Chapter 17.60 (Application Filing and Processing). The application shall be accompanied by the information identified in the Department handout for Waiver of Development Standards Permit application, including the specific economic information described in the handout.
- C. Procedure.** The procedure for a Waiver of Development Standards Permit shall be the same as for a Minor Variance (Section 17.61.080.C.3). A Waiver of Development Standards Permit may be granted with approval by the Hearing Officer. The Hearing Officer may:
1. Approve the waiver and/or reduction of development standard; or

2. Deny the waiver and/or reduction in development standard; or
3. Approve one or more waivers and/or reductions and deny one or more other waivers and/or reductions, if more than one waiver or reduction is described in the application.

**D. Findings.** A Waiver of Development Standards Permit shall be approved upon making the following findings.

1. The waiver or reduction in a development standard is required for construction of the development project at the density to which the project is entitled and with all concessions or other incentives approved for the project; and
2. The waiver or reduction in a development standard will not have a specific adverse impact on public health, public safety, or the physical environment, and will not have an adverse impact on a property that is 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, or adverse impact, without rendering the development unaffordable to low- and moderate-income households.
3. The waiver or reduction in a development standard is necessary to make the housing units economically feasible.

### **17.43.070 – Floor Area Bonus and Concessions for Child Day-Care Center**

- A. Floor area bonus or concession for inclusion of child day-care facility.** An applicant for a development project that complies with the density bonus requirement of this section and that also includes a child day-care center that will be located on the premises of, as part of, or adjacent to, the project may request one additional bonus or concession as follows.
1. Additional net floor area for housing units that is equal to or greater than the net floor area in the child day-care center.
  2. A concession that contributes significantly to the economic feasibility of the construction of the child day-care center, in addition to a concession granted for designated dwelling units.
- B. Application requirements.** An applicant for a Child Day-Care Bonus or Concession Permit shall be filed in compliance with Chapter 17.60 (Application Filing and Processing). The application shall be accompanied by the information identified in the Department handout for a Child Day-Care Bonus or Concession Permit application, including the specific economic information described in the handout.
- C. Procedure.** The procedure for a Child Day-Care Bonus or Concession Permit shall same as for a Minor Variance (Section 17.61.080.C.3) Child Day-Care Bonus or Concession Permits may be granted with approval by the Hearing Officer. The Hearing Officer may:
1. Approve the bonus or concession described in the application for the Child Day-Care Bonus or Concession Permit, if the findings below are made.

2. Deny the bonus or incentive described in the application for the Child Day-Care Bonus or Concession Permit, if the necessary findings cannot be made.
- D. **Findings.** A child day-care bonus or concession shall be approved upon making the following findings.
1. The bonus or concession would contribute significantly to the economic feasibility of the construction of the child day-care center.
  2. The bonus or concession would not have a specific adverse impact on public health, public safety, or the physical environment, and would not have an adverse impact on a property that is 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, or adverse impact, without rendering the development unaffordable to low- and moderate-income households. A specific adverse impact is a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.
- E. **Conditions of Approval.** The child day-care center shall comply with conditions of approval as follows.
1. The child day-care center shall remain in operation for a period of time that is equal to or longer than the period during which the designated dwelling units are required to be affordable.
  2. Of the children who attend the child day-care center, the children of very low income households, lower 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 or low-income households or families of moderate income.

### 17.43.080 - Bonus for Donation of Land

- A. **Bonus for Donation of Land.** An applicant for a tentative subdivision map, parcel map, or other residential development approval who donates land to the City shall be entitled to a bonus in residential density for the entire development above the density allowable under this Title and the Land use Element of the General Plan.
- B. **Requirements for Bonus.** A bonus for the donation of land shall meet the following requirements.
1. The applicant shall donate and transfer 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 transferred shall be sufficient to permit construction of units affordable to very low income households in an amount not less than 10 percent of the number of residential units of the proposed development.

3. The transferred land shall be at least one acre in size or of sufficient size to permit development of at least 40 units, has the appropriate general plan designation, is appropriately zoned for development as affordable housing, 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. No later than the date of approval of the final subdivision map, parcel map, or of the residential development, the transferred land shall have all of the permits and approvals, other than concept design review and building permits, necessary for development of the very low income housing units on the transferred land.
4. The transferred land and the affordable units shall be subject to a deed restriction ensuring continued affordability of the units, consistent with Section 17.43.100 (Enforcement of Affordability).
5. The land shall be transferred to the City of Pasadena or to a housing developer approved by the City of Pasadena.
6. The transferred land shall be within the boundary of the proposed development or, with approval of the Director, within one-quarter mile of the boundary of the proposed development.

C. **Density bonus of up to 35 percent.** The density bonus for donation of land for very low-income units shall be calculated as follows.

**Table 4-3.3 - Increase in Allowable Density for Donation of Land For Very Low-Income Units**

<b>Percent Very Low-Income Units</b>	<b>Percentage Density Bonus</b>
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
29	34

30	35
----	----

- D. **Bonuses may be combined.** A bonus for the donation of land may be combined with a bonus granted under Section 17.43.040.

**17.43.090 - Alternative Parking Standards**

- A. An applicant may request the following alternative parking requirements.

Number of Bedrooms	On-Site Parking Spaces
0 – 1	1
2 – 3	2
4 or more	2.5

- B. If the total number of parking spaces required for the development is other than a whole number, the number shall be rounded up to the next whole number. A development may provide on-site parking through tandem parking or uncovered parking on the project site.

**17.43.100 – Enforcement of Affordability**

- A. Low and very low income: covenant for 30 years. A covenant or other document satisfactory to the City Attorney shall be recorded before issuance of a building permit, which shall ensure that the low and very low income density bonus units are at all times rented or sold to, and remain affordable at, the applicable income level for at least 30 years. If a density bonus unit is also being used to satisfy the requirements of Chapter 17.42, the longer term of affordability shall apply.
- B. Moderate income: recapture of financial interest. A covenant or other document satisfactory to the City Attorney shall be recorded before issuance of a building permit, which shall ensure that the moderate income density bonus units are initially occupied by persons or families at a moderate income level. Moderate income units may be offered for subsequent sale to an above-moderate income purchaser; provided that the sale shall result in a recapture by the City, or its designee, of a financial interest in the unit equal to:
  - 1. Difference between price and value. The difference between the initial moderate income level sales price and the appraised value at the time of the initial sale; and
  - 2. Proportionate share of appreciation. A proportionate share of any appreciation.
- C. Forfeiture of funds. Any individual who rents a unit in violation of this Chapter shall be required to forfeit all rents above the applicable affordable rate; any individual who sells a unit in violation of this Chapter shall be required to forfeit all profits from the sale exceeding the difference between the sale price and the applicable affordable sales price. Recovered funds shall be deposited in to the Inclusionary Housing Trust Fund.

**17.43.110 – Administrative Procedures**

The City Manager or her/his designee may adopt administrative procedures for implementation of this Chapter.

**EXHIBIT 2**

**TABLE 4-6 - OFF-STREET PARKING SPACE REQUIREMENTS**

Use Classification	Minimum Parking
<b>Residential Uses</b>	
Boarding Houses	1 covered space for each 3 habitable rooms provided in the facility.
Caretaker Quarters	1 space.
Dormitories	1 covered space for each 3 habitable rooms provided in the facility.
Fraternity Sorority Housing	1 covered space for each 3 habitable rooms provided in the facility.
Mixed-Use Developments	Combination of individual residential and commercial parking requirements.
<b>Multi-Family Residential</b>	
CD (Central District)	Parking shall be provided in compliance with Section 17.50.340 (Transit-Oriented Development) for those areas within the Central District Transit-Oriented Area (Figure 3-5). Outside the transit district, parking shall be 1 space for units less than 650 sq. ft. and 1.5 spaces for units 650 sq. ft. or greater. Developments with 10 units or more shall also provide 1 guest parking space for each 10 units. The guest spaces shall be clearly marked for "Guest Parking Only."
Multi-family Dwelling Units	2 covered spaces per unit 650 sq. ft. or larger; 1 covered space per unit less than 650 sq. ft. of net floor area. Developments with 10 units or more shall also provide 1 guest parking space for each 10 units. The guest spaces shall be clearly marked for "Guest Parking Only."
Senior Citizen Housing	Subject to approval of a Conditional Use Permit and making findings required in Section 17.46.070 (Reduced Parking in Senior Citizens' Housing Developments); no less than .50 spaces per unit. <del>For density bonus projects, no Conditional Use Permit is required.</del> <u>For density bonus projects, further reductions shall be through the concessions and other incentives process.</u> Projects with 10 units or more shall also provide 1 guest parking space for

**EXHIBIT 2**

<b>Use Classification</b>	<b>Minimum Parking</b>
	each 10 units. The guest spaces shall be clearly marked for "Guest Parking Only."
Residential Care Facilities, General	As specified by Conditional Use Permit.
Residential Care Facilities, Limited	2 covered parking spaces per unit within a garage or carport.
Single-Room Occupancy-Affordable	1 space per 4 units; plus 2 spaces for the resident manager.
Single-Room Occupancy Market Rate (or not guaranteed affordable)	1 space per unit; plus 2 spaces for the resident manager.
Single-Family Dwelling Units	2 covered spaces per unit within a garage or carport.
Transition Housing	2 covered spaces per unit within a garage or carport.

**Scored language deleted, underlined language added.**