

Specific Provisions for Density Bonus Amendment Attachment A

Density Bonus Units

State law requires that the city grant a *density bonus* for projects that include one of the following:

1. Five percent of the units, not including the bonus units, are for very low income households;
2. Ten percent of the units, not including the bonus units, are for low income households;
3. Ten percent of the units in a common interest development (i.e., a condominium project or a co-op), not including the bonus units, are for moderate income households;
4. A senior citizen project, i.e., a project that includes at least 35 units for senior citizens, or a senior mobile home park. (There are no income limits for the senior citizen units.)

The density bonus for these minimum percentages of affordable units varies according to whether they are for very low or low income households, or are for sale to moderate income households (Attachment B). In addition, the bonus is provided on a sliding scale up to 35 percent, depending on the percentage of units that are very low, low, or moderate income. The bonus is available for projects that involve a housing development of five or more dwelling units.

With subdivision or another project approval, an applicant may donate land for affordable housing. The donation must be adequate for development of at least forty very low income units, with General Plan designation and zoning that are appropriate for development as affordable housing. The units to be developed on the donated land, as a percentage of the total development project, determine the percentage of density bonus. If the donated land is adequate for construction of units equal to ten percent of the project total, then the bonus is 15 percent. The bonus increases by one percentage point for each percentage point of buildable very-low income units on the donated land, and may be combined with the bonus for affordable or senior units, up to a total of 35 percent.

Projects that include a childcare facility on the site, or adjacent to it, qualify for either an additional density bonus or for an additional concession or incentive. The residential density bonus is at least equal to the floor area of the childcare facility.

Concessions or Incentives

State law also requires that the city grant *from one to three concessions or incentives* to projects that qualify for a density bonus (as shown above), depending on the income

level at which units are affordable and the percentage of affordable units. Concessions or incentives include any of the following: (1) a reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed minimum building standards established by the State, with “identifiable, financially sufficient, and actual cost reductions” for the project; (2) approval of mixed-use zoning, where the nonresidential uses will reduce the cost of the housing development; and (3) other regulatory incentives or concessions proposed by the developer or the city that result in “identifiable, financially sufficient, and actual cost reductions.”

A project is entitled to from one to three concessions or incentives: one for projects that meet the minimum density bonus requirement, two for projects that have twice the minimum requirement, or three for projects that have three times the minimum. The State statute does not specify how many concessions or incentives are to be granted to a senior development project that does not also qualify with affordable units, though it requires that a local jurisdiction grant at least one.

The City must grant the concessions or incentives unless it makes a written finding, based upon substantial evidence, of either of the following:

- The concession or incentive is not required in order for the designated units to be affordable; or,
- The concession or incentive would have a “specific adverse impact” on health, safety or the physical environment, or would have an adverse impact on any 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 without rendering the development unaffordable to low- and moderate-income households.

Waiver or Modification Development Standards

State law also requires the City to establish procedures for waiving or modifying any development standard that would otherwise inhibit the utilization of the density bonus on specific sites. It prohibits the City from applying any development standard that would have the effect of precluding the construction of a development that qualifies for a density bonus, with the bonus and also with any concessions and incentives that the City is required to approve. The waiver, or modification, of a development standard is in addition to the concessions and incentives described above. Unlike the concessions and incentives, which may be limited in number according to State law, however, the potential waivers or modifications are not limited in number. Any proposed waiver or modification that meets the state law requirement must be approved.

According to the statute, the applicant is required to show that the waiver or modification is “necessary to make the housing units economically feasible,” because the specific standard would preclude the construction on the site of a development that qualifies for a density bonus, with the bonus and also with approved concessions and incentives. As with concessions and incentives, the City is not required to approve waivers or

modifications that would have a “specific adverse impact” on public health or safety or on the physical environment, or that would have an adverse impact on a property that listed in the California Register of Historic Resources.

Specific Affordability Requirements

State law establishes the requirements for price and duration of the affordability of units that qualify a project for density bonus and concessions or incentives, by referring to various State law definitions. Affordable rents, including a utility allowance, must not exceed:

- For Very Low-Income Households – 30 percent times 50 percent of the County median income adjusted for family size appropriate for the unit;
- For Low-Income Households – 30 percent times 60 percent of the County median income adjusted for family size appropriate for the unit.

Rental units are to remain affordable for a period of at least thirty years, under the State requirements.

For the initial sale of moderate-income units, the housing costs are to be not less than 28 percent of the gross income of the qualifying household or more than 35 percent times 110 percent of the County median income adjusted for family size. The income range for moderate-income households is between 80 and 120 percent of the County median adjusted for family size. For moderate-income households that exceed 110 percent of the County adjusted median, housing costs may be as high as 35 percent of the household’s income, if the local jurisdiction chooses to allow the higher limit. Units may be resold to households with incomes that exceed the moderate income limits, but an equity-sharing agreement is required, as described in the State law.