Chapter 20.56 - DENSITY BONUS

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20.56.010 Purpose

This chapter provides incentives for the production of housing for very low-income, low-income, and senior households and for the production of housing for moderate-income households residing in condominium and planned development projects. In enacting this chapter, it is the City's intent to facilitate the development of affordable housing through the granting of density bonuses and to implement the goals, objectives, and policies of the City's General Plan Housing Element. This chapter is enacted under the authority of Government Code Sections 65915 through 65917.5 and the definitions in Government Code Sections 65915 through 65917.5 are incorporated by reference into this chapter.

20.56.020 Density Bonus; Incentives

A. General.

1. The City shall grant a density bonus and other incentives to an applicant for a housing development of five or more units if they meet the requirements of this Chapter.
2. The deed restriction and other applicable documents, approved by City Attorney, of a property subject to density bonus shall include a period of continuation of affordability not less than 30 years or a longer period of time.

3. Neither the granting of an incentive nor the granting of a density bonus shall be interpreted, in and of itself, to require a General Plan Amendment, Zoning Ordinance Amendment, or other discretionary approval.

B. Density Bonus – Minimum Requirement (Target Units). The City shall grant a density bonus to an applicant for a housing development of five or more units who seeks a density bonus and agrees to construct at least one of the following:

1. **Very Low-Income.** 5 percent of the total units of the housing development as target units affordable to very low-income households;

2. **Low-Income.** 10 percent of the total units of the housing development as target units affordable to low-income households;

3. **Moderate-Income.** 10 percent of the total units of a newly constructed condominium project or planned development as target units affordable to moderate-income households, provided all the units are offered for purchase; or,

4. **Senior.** A senior citizen housing development of 35 units or more, or a mobile home park that limits residency based on age requirements for housing older persons under Civil Code Section 798.76 or 799.5.

C. Density Bonus – Calculation of Bonus Units.

1. In determining the number of density bonus units to be granted under Subsection B above, the maximum residential density for the site shall be multiplied by 0.20 for Subsections B.1, B.2 and B.4 above and by 0.05 for Subsection B.3 above, unless a lesser number is selected by the developer.

   a. **Very Low-Income.** For each 1 percent increase above 5 percent in the percentage of units affordable to very low-income households, the density bonus is increased by 2.5 percent up to a maximum of 35 percent.

   b. **Lower-Income.** For each 1 percent increase above 10 percent in the percentage of units affordable to lower-income households, the density bonus is increased by 1.5 percent up to a maximum of 35 percent.

   c. **Moderate-Income.** For each 1 percent increase above 10 percent of the percentage of units affordable to moderate-income households, the density bonus is increased by one percent up to a maximum of 35 percent.

   d. **Senior.** For senior housing, the density bonus shall be 20 percent of the number of senior housing units.

2. The density bonus units shall not be included when determining the number of target units required to qualify for a density bonus. When calculating the required number of target units, any calculations resulting in fractional units shall be rounded to the next larger number.

3. The developer may request a lesser percentage of density bonus than the project is entitled to. Regardless of the number of target units, no housing development is entitled to a density bonus of more than 35 percent.

D. Density Bonus Summary. Table 20.56-1 summarizes the density bonus information described in this subsection.

E. Incentives. Subject to the findings included in Section 20.56.080 (Application Requirements), when a developer seeks a density bonus, the City shall grant incentives listed in Section 20.56.070 (Modifying Development Standards as an Incentive) as follows:

1. 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 condominium or planned development.

TABLE 20.56-1 DENSITY BONUS SUMMARY

Target Group	Minimum % Target Units	Bonus Granted	Additional Bonus for each 1% Increase in Target Units	Percent Target Units Required for Maximum 35% Bonus
Very-Low Income	**5%**	**20%**	**2.5%**	**11%**
Lower-Income	**10%**	**20%**	**1.5%**	**20%**
Moderate-Income (Condo or Planned Development Only)	**10%**	**5%**	**1%**	**40%**
Senior Citizen Housing Development	**100%**	**20%**	**–**	**–**

2. 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 condominium or planned development.
3. 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 condominium or planned development.
4. An incentive may be requested only if an application is also made for a density bonus, except for child care facilities under Section 20.56.040.
5. Under no circumstances shall a waiver of development fees or of the installation of the public frontage improvements be granted.

F. Incentives – Summary. Table 20.56-2 (Incentives Summary) summarizes the incentives described in this subsection.

TABLE 20.56-2 INCENTIVES SUMMARY

Target Group	Target Units		
Very-Low Income	**5%**	**10%**	**15%**
Lower-Income	**10%**	**20%**	**30%**
Moderate-Income (Condo Or Planned Development Only)	**10%**	**20%**	**30%**
Maximum Incentive(s)	**1**	**2**	**3**

20.56.030 Land Donation

A. General. When an applicant for a housing development donates land to the City as provided for in this section, the applicant is entitled to a 15 percent increase above the otherwise maximum allowable residential density under the Zoning Ordinance and General Plan Land Use Element for the entire development. For each 1 percent increase above the minimum 10 percent land donation described in Section B.2 below, the density bonus shall be increased by one percent, up to a maximum of 35 percent. This increase shall be in addition to any increase in density required by Section 20.56.020 (Density Bonus; Incentives), up to a maximum combined density bonus of 35 percent if an applicant seeks both the increase required under this Section 20.56.020 (Density Bonus; Incentives). When calculating the number of permitted density bonus units, any calculations resulting in fractional units shall be

rounded to the next larger number. An applicant is not eligible for an increase in density bonus for the donation of land required by the City's parkland dedication ordinance or for any other legally required land dedication.

B. Eligibility. A housing development applicant is eligible for the density bonus described in this section if the City makes all of the following findings:

1. The applicant will 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 are sufficient to permit construction of units affordable to very low-income households in an amount of at least 10 percent of the number of residential units of the proposed development, or will permit construction of a greater percentage of units if proposed by the developer.

3. The transferred land is at least 1 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 very low-income housing, and is now or at the time of construction will be served by adequate public facilities and infrastructure. The land must also have the appropriate zoning and development standards to make the development of the very low-income units feasible. No later than the date of approval of the final subdivision map, parcel map, or residential development, the transferred land will have all of the permits and approvals, other than building permits, necessary for the development of the very low-income housing units on the transferred land.
4. The transferred land and the affordable units constructed on the land will be subject to a deed restriction ensuring continued affordability of the units consistent with Sections 20.56.060.B and C, which restriction will be recorded on the property at the time of dedication.
5. The land will be transferred to the City or to a housing developer approved by the City. The City may require the applicant to identify a developer of the very low-income units and to require that the land be transferred to that developer.
6. The transferred land is within the boundary of the proposed housing development or within a quarter mile of the boundary.

20.56.040 Child Care Facilities

A. Incentives. When an applicant proposes to construct a housing development that includes target units as specified in Section 20.56.020 (Density Bonus; Incentives) and includes a child care facility that will be located on the premises of, as part of, or adjacent to the housing development, the City shall grant either of the following if requested by the developer:

1. An additional density bonus that is an amount of square feet of residential space that is equal to or greater than the amount of square feet in the child care facility;
2. An additional incentive that contributes significantly to the economic feasibility of the construction of the child care facility.

B. Findings. A housing development is eligible for the density bonus or incentive described in this section if the City makes both of the following findings:

1. The child care facility will remain in operation for a period of time that is as long as or longer than the period of time during which the target units are required to remain affordable under Sections 20.56.060.B and C.
2. Of the children who attend the child care facility, the percentage of children of very low-income households, low-income households, or moderate-income households shall be equal to or greater than the percentage of dwelling units that are proposed to be affordable to very low-income households, low-income households, or moderate-income households.

C. Necessity. Notwithstanding any requirement of this section, the City is not required to provide a density bonus or incentive for a child care facility if it finds, based upon substantial evidence, that the community already has adequate child care facilities.

20.56.050 Condominium Conversions

A. Incentives. The City shall grant either a density bonus or other incentives of equivalent financial value if the applicant for a conversion of existing rental apartments to condominiums agrees to provide 33 percent of the total units of the proposed condominium project as target units affordable to low- or moderate-income households, or to provide 15 percent of the total units in the condominium conversion project as target units affordable to low-income households. All such target units shall remain affordable for the period specified in Section 20.56.060.

B. Density Bonus Defined. For purposes of this section, a "density bonus" means an increase in units of 25 percent over the number of apartments to be provided within the existing structure or structures proposed for conversion.

C. Eligibility. No condominium conversion is eligible for a density bonus if the apartments proposed for conversion constitute a housing development for which a density bonus or other incentives were previously provided under this section or Government Code Section 65915.

20.56.060 Affordability and Development Standards

A. Timing of Construction. Target units shall be constructed concurrently with non-restricted units or pursuant to a schedule included in the density bonus housing agreement.

B. Continued Affordability-Rent. Target units offered for rent for low-income and very low-income households shall be made available for rent at an affordable rent as defined in State law and shall remain restricted and affordable to the designated income group for a minimum period of 30 years. A longer period of time may be specified if required by any construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program applicable to the housing development.

C. Continued Affordability-For Sale. Target units offered for sale to very low-, low-, or moderate income households in condominiums and planned developments shall be sold at an affordable ownership cost as defined in State law.

1. The maximum resale price homes to very-low or low-income households shall be the lower of (1) fair market value, or (2) the seller's initial purchase price, increased by the lesser of (i) the rate of increase of area median income during the seller's ownership, or (ii) the rate at which the consumer price index increased during the seller's ownership. The seller of the unit shall retain the market value at the time of sale of any capital improvements made by the seller, the down payment, and the seller's proportionate share of appreciation.

2. 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.

D. Initial Occupants. The initial occupant of the moderate-income units that are directly related to the receipt of the density bonus units in a condominium project or a planned unit development must be persons or families of moderate income. 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. The City shall recapture any initial subsidy and its proportionate share of appreciation, equal to (1) the fair market value of the home at the time of initial sale minus the initial sales price to the moderate income household, plus the amount of any down-payment assistance or mortgage assistance ("initial subsidy") plus (2) the ratio of the initial subsidy to the fair market value of the home at the time of initial sale ("proportionate share of appreciation").

E. Location and Design. Target units shall be built on site and shall be dispersed within the housing development. The number of bedrooms of the target units shall be equivalent to the bedroom mix of the non-target units of the housing development, except that the developer may include a higher proportion of target units with more bedrooms. The design and appearance of the target units shall be compatible with the design of the total housing development. Housing developments shall comply with all applicable development standards, except those which may be modified as provided by this section.

F. Parking.

1. Upon the request of the applicant, the City may not require a vehicular parking ratio, inclusive of handicapped and guest parking, of a development meeting

the criteria of section 20.56.020 (Density Bonus; Incentives) that exceeds the ratios in Table 20.56-3 (Maximum Required Parking).

TABLE 20.56-3 MAXIMUM REQUIRED PARKING

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

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

20.56.070 Modifying Development Standards as an Incentive

A. Eligible Incentives. Incentives requested under Sections 20.56.020 (Density Bonus; Incentives) and 20.56.030 (Land Donation) may include the following:

1. A reduction of a site development standard or a modification of a Zoning Ordinance requirement which exceeds the minimum building standards provided in Health and Safety Code Section 18901 and following and which result in identifiable, financially sufficient, and actual cost reductions, including, but not limited to the incentives shown in Table 20.56-4 (Incentives).

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 if the City finds that the proposed nonresidential uses are compatible with the housing development and with existing or planned development in the area where the proposed housing development will be located. (Approval of mixed use zoning is considered six incentives.)

3. Other regulatory incentives proposed by the developer or the City which result in identifiable, financially sufficient, and actual cost reductions. The City has the right to establish the incentive value for any other incentive proposed by an applicant.

TABLE 20.56-4 INCENTIVES

Reduced minimum parcel size or dimension	**Each reduction of 10 percent is considered one incentive.**
Reduced minimum setback: front or rear	**Reduction in combined front and rear setbacks is considered one incentive, except that the reduction must leave at least a 5-foot setback from both front and rear property lines.**
Reduced side setbacks	**Reduction in combined side setbacks is considered one incentive, except that the reduction must leave at least one 5-foot setback.**
Increased maximum parcel coverage	**Each increase of 10 percent is considered one incentive.**
Reduced open space requirement	**Each decrease of 10 percent in the open space requirement is considered one incentive.**
Increased maximum structure height	**Each additional story in height is considered one incentive, except when the total structure height exceeds four stories. In that case, each additional increase by a partial story is one incentive and each additional increase by a full story is two incentives.**
Waiver of a design standard from the City's Engineering Standards	**Each waiver of a design standard is considered one incentive. (Waivers of General Plan design standards are not permitted, for example: connectivity, community character.)**

B. Necessity. An applicant may seek a waiver or modification of development standards that will have the effect of precluding the construction of a housing development meeting the criteria of Section 20.56.020 (Density Bonus; Incentives) at the densities or with the incentives permitted by this section. The developer shall show that the waiver or modification is necessary to make the housing units economically feasible. The City may retain a consultant to review the financial report with costs borne by the applicant.

C. No Waivers Granted. Under no circumstances shall a waiver of development fees or the installation of public improvements be granted.

20.56.080 Application Requirements and Review

A. Application. An application for a density bonus, incentive, waiver, modification, or revised parking standard under this chapter shall be submitted with the first application for approval of a housing development and processed concurrently with all other applications required for the housing development. The application shall be submitted on a form prescribed by the City, including all applicable fees for processing the application, and shall include at least the following information:

1. Site plan showing total number of units, number, and location of target units, and number and location of proposed density bonus units.
2. Level of affordability of target units and proposals for ensuring affordability. [See Section 20.56.060 (Affordability and Development Standards)]
3. Description of any requested incentives, waivers, or modifications of development standards, or modified parking standards.
4. For all incentives, the application shall include substantial evidence that the requested incentives result in identifiable, financially sufficient, and actual cost reductions.
5. For waivers or modifications of development standards, the application shall provide substantial evidence to show that the waiver or modification is necessary to make the housing units economically feasible and that the development standards, without waiver or modification, will have the effect of precluding the construction of a housing development meeting the criteria of Section 20.56.020 (Density Bonus; Incentives) at the densities or with the incentives permitted by this section
6. The applicant shall submit a development pro forma in a form prescribed by the City or the City's Economic Consultant. The applicant shall pay the cost of peer review of the development pro forma.
7. If a density bonus or concession is requested for a land donation, the application shall show the location of the land to be dedicated and provide evidence that each of the findings included in Section 20.56.030 (Land Donations) can be made.
8. If a density bonus or incentive is requested for a child care facility, the application shall show the location and square footage of the child care facility and provide substantial evidence that each of the findings included in Section 20.56.040 (Child Care Facilities) can be made.

B. Approval Body.

1. An application for a density bonus, incentive, waiver, modification, or revised parking standard under this section shall be considered by and acted upon by the City Council with authority to approve the housing development. The City Council may ask for a recommendation from the Planning Commission on the project prior to approval.

2. Neither the granting of an incentive, waiver, or modification nor the granting of a density bonus shall be interpreted, in and of itself, to require a general plan amendment, zoning change, variance, or other discretionary approval.

C. Findings for Approval. Before approving an application for a density bonus, incentive, waiver, or modification, the approval body shall make the following findings:

1. The findings included in Section 20.56.030 (Land Donation) if the density bonus is based all or in part on donation of land.

2. The findings included in Section 20.56.040 (Child Care Facilities) if the density bonus, incentive, or concession is based all or in part on the inclusion of a child care facility.

3. The findings included in Section 20.56.070 (Modifying Development Standards) if the incentive or concession includes mixed use development.

4. If a waiver or modification is requested, the developer has to prove by submitting substantial evidence that the waiver or modification is necessary to make the housing units economically feasible.

D. Findings Required for Denial of Incentive. If a request for an incentive is otherwise consistent with this section, the approval body may deny an incentive if it makes a written finding, based upon substantial evidence, of either of the following:

1. The incentive is not required to provide for affordable rents or affordable ownership costs.

2. The incentive would have a specific adverse impact upon: (i) public health or safety; (ii) the physical environment; or (iii) on any real property that is listed in

the California Register of Historical Resources; and 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.

3. For the purpose of this subsection, "specific adverse impact" means 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 that the application was deemed complete.

E. Findings Required for Denial of Waiver or Modification. If a request for a waiver or modification is otherwise consistent with this section, the approval body may deny the waiver or modification only if it makes a written finding, based upon substantial evidence, of either of the following:

1. The waiver or modification would have a specific adverse impact upon health, safety, or the physical environment, and 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.

2. For the purpose of this subsection, "specific adverse impact" means 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 that the application was deemed complete

3. The waiver or modification would have an adverse impact on any real property that is listed in the California Register of Historical Resources.

F. Findings Required for Denial of Bonus or Incentive for Child Care Facility. If a density bonus or concession is based on the provision of child care facilities, the approval body may deny the bonus or concession if it finds, based on substantial evidence, that the City already has adequate child care facilities.

20.56.090 Density Bonus Housing Agreement

A. Agreement Required. An applicant requesting a density bonus shall agree to enter into a density bonus housing agreement (or affordable housing agreement, or other appropriate title) with the City. The agreement shall be made a condition of each discretionary planning permit for the housing development under this subsection.

B. Recordation. The density bonus housing agreement shall be recorded as a restriction on any parcel on which the target units or density bonus units will be constructed. It shall be recorded before or concurrently with final or parcel map approval, or, where the housing development does not include a map, before issuance of a building permit for any structure in the housing development. The density bonus housing agreement shall run with the land and bind all successors in interest.

C. Contents. The density bonus housing agreement shall include, but not be limited to, the following:

1. The total number of units approved for the housing development, the number, location, and level of affordability of target units, and the number of density bonus units.
2. Standards for determining affordable rent or affordable ownership cost for the target units as well as the length of time of affordability restrictions.
3. The location, unit size in square feet, and number of bedrooms of target units.
4. Provisions to ensure affordability in accordance with Sections 20.56.030 (Land Donation) and 20.56.050 (Condominium Conversions).
5. A schedule for completion and occupancy of target units in relation to construction of non-restricted units.
6. A description of any incentives, waivers, or reductions being provided by the City.
7. A description of remedies for breach of the agreement by either party. The City may identify tenants or qualified purchasers as third party beneficiaries under the agreement.
8. Procedures for qualifying tenants and prospective purchasers of target units.
9. Other provisions to ensure implementation and compliance with this section.

D. For-Sale Housing Provisions. In the case of for-sale housing developments, the density bonus housing agreement shall include the following conditions governing the sale and use of target units during the applicable use restriction period:

1. Target units shall be owner-occupied by eligible very low-, low-, or moderate-income households, or by qualified residents in the case of senior citizen housing developments. Target units shall be the purchaser's principal residence.
2. The purchaser of each target unit shall execute an instrument approved by the City and to be recorded against the parcel including such provisions as the City may require to insure continued compliance with this section, including restrictions on resale or rental of the unit.

E. Rental Housing Provisions. In the case of rental housing developments, the density bonus housing agreement shall provide for the following:

1. Procedures for establishing affordable rent, filling vacancies, and maintaining target units for eligible tenants.
2. Provisions requiring verification of household incomes.
3. Provisions requiring maintenance of records to demonstrate compliance with this subsection.

F. Child Care Facility or Land Dedication Provisions. A density bonus housing agreement for a child care facility or land dedication shall ensure continued compliance with all conditions included in Sections 20.56.040 (Child Care Facilities) and 20.56.030 (Land Donation), respectively.

COMMUNITY CENTER