

SECTION 26 - DENSITY BONUSES¹

- 26.1 **PURPOSE.** The purpose of this Section is to adopt regulations that specifies how compliance with Government Code Section 65915 ("State Density Bonus Law") will be implemented in an effort to encourage the production of low and very-low income housing units in developments proposed within the city.
- 26.2 **DEFINITIONS.** Unless otherwise specified in this Section, the definitions found in State Density Bonus Law apply to the terms contained herein.
- 26.3 **APPLICABILITY.**
- (a) This Section applies to all zoning districts, including mixed use zoning districts, where:
 - (1) Residential developments of five (5) or more dwelling units are proposed; and,
 - (2) The applicant seeks and agrees to provide low, very low, senior or moderate income housing units in the threshold amounts specified in State Density Bonus Law such that the resulting density is beyond that which is permitted by the applicable zoning.
 - (b) This Section and State Density Bonus Law apply only to the residential component of a mixed-use project and do not increase the allowable density of the nonresidential component of any proposed project.
- 26.4 **APPLICATION REQUIREMENTS.**
- (a) Any applicant requesting a density bonus, incentive(s) or waiver(s) under the State Density Bonus Law must provide a written proposal to the city. The proposal shall be submitted prior to or concurrently with filing the planning application for the housing development and shall be processed in conjunction with the underlying application.
 - (b) The proposal for a density bonus, incentive(s) or waiver(s) under the State Density Bonus Law must include the following information.
 - (1) Requested Density Bonus. The proposal must demonstrate that the project meets the State Density Bonus Law threshold(s) for the requested density bonus. The proposal must include the following calculations. The density bonus units may not be included in determining the percentage of base units that qualify a project for a density bonus under State Density Bonus Law.
 - (A) The maximum base density,
 - (B) the number/percentage of affordable units and identification of the income level at which such units will be restricted, and
 - (C) additional market rate units resulting from the density bonus allowable under State Density Bonus Law and the resulting unit per acre density.

¹Section 26 was added by Ord. #861, 6/11/92; amended by Ord. 2014-1079, §15, 8/26/2014.

- (2) Requested Incentive(s). The request for particular incentive(s) must include a pro forma or other report evidencing that the requested incentive(s) results in identifiable, financially sufficient and actual cost reductions that are necessary to make the housing units economically feasible. The report shall be sufficiently detailed to allow the city to verify its conclusions. If the city requires the services of specialized financial consultants to review and corroborate the analysis, the applicant will be liable for all costs incurred in reviewing the documentation.
- (3) Requested Waiver(s). The written proposal shall include an explanation of the waiver(s) of development standards requested and why they are necessary to make the construction of the project physically possible. Any requested waiver(s) shall not exceed the limitations provided by Section 26.8 and to the extent such limitations are exceeded will be considered as a request for an incentive.
- (4) Fee. Payment of the fee in an amount set by resolution of the city council to reimburse the city for staff time spent reviewing and processing the State Density Bonus Law application submitted under this Section.

26.5 DENSITY BONUS.

- (a) A density bonus for a housing development means a density increase over the otherwise maximum allowable residential density under the applicable zoning and land use designation on the date the application is deemed complete. The amount of the allowable density bonus shall be calculated as provided in State Density Bonus Law. The applicant may select from only one of the income categories identified in State Density Bonus Law and may not combine density bonuses from different income categories to achieve a larger density bonus.
- (b) The body with approval authority for the planning approval sought will approve, deny or modify requests for density bonus and incentive(s) in accordance with State Density Bonus Law. Nothing herein prevents the city from granting a greater density bonus and additional incentives or waivers than that provided for herein, or from providing a lesser density bonus and fewer incentives and waivers than that provided for herein, when the housing development does not meet the minimum thresholds.

26.6 INCENTIVES.

- (a) The number of incentives granted shall be based upon the number the applicant is entitled under the State Density Bonus Law.
- (b) An incentive includes a reduction in site development standards or a modification of zoning code requirements or architectural requirements that result in identifiable, financially sufficient and actual cost reductions. An incentive may be the approval of mixed use zoning (e.g., commercial) in conjunction with a housing project if the mixed use will reduce the cost of the housing development and is compatible with the housing project. An incentive may, but need not be, the provision of a direct financial incentive, such as the waiver of fees.
- (c) A requested incentive may be denied only for those reasons provided in State Density Bonus Law. Denial of an incentive is a separate and distinct act from a decision to deny or approve the entirety of the project.

- 26.7 DISCRETIONARY APPROVAL AUTHORITY RETAINED. The granting of a density bonus or incentive(s) shall not be interpreted in and of itself to require a general plan amendment, zoning change or other discretionary approval. If an incentive would otherwise trigger one of these approvals, when it is granted as an incentive, no general plan amendment, zoning change or other discretionary approval is required. However, if the base project without the incentive requires a general plan amendment, zoning change or other discretionary approval, the city retains discretion to make or not make the required findings for approval of the base project.
- 26.8 WAIVERS. A waiver is a modification to a development standard such that construction at the increased density would be physically possible. Modifications to floor area ratio in an amount equivalent to the percentage density bonus utilized shall be allowable as a waiver. Requests for an increase in floor area ratio above that equivalent percentage shall be considered a request for an incentive. Other development standards include, but are not limited to, a height limitation, a setback requirement, an on-site open space requirement, or a parking ratio that applies to a residential development. An applicant may request a waiver of any development standard to make the project physically possible to construct at the increased density. To be entitled to the requested waiver, the applicant must show that without the waiver, the project would be physically impossible to construct. There is no limit on the number of waivers.
- 26.9 AFFORDABLE HOUSING AGREEMENT. Before project approval, the applicant must enter into an affordable housing agreement with the city, to be executed by the city manager, to the satisfaction of the city attorney guaranteeing the affordability of the rental or ownership units for a minimum of thirty (30) years and identifying the type, size and location of each affordable unit, and containing requirements for administration, reporting and monitoring. The agreement must be recorded in the San Mateo County recorder's office.
- 26.10 DESIGN AND QUALITY.
- (a) Affordable units must be constructed concurrently with market rate units and must be integrated into the project.
 - (b) Affordable units must be of equal design and quality as the market rate units.
 - (c) Exteriors and interiors, including architecture, elevations, floor plans, interior finishes and amenities of the affordable units must be similar to the market rate units.
 - (d) The number of bedrooms in the affordable units must be consistent with the mix of market rate units.
 - (e) The requirements of subsections (a) through (d) may be waived or modified on a case by case basis for affordable housing units developed for special groups, including housing for special needs or seniors.
 - (f) Parking standards shall be modified as allowable under State Density Bonus Law and anything beyond those standards shall be considered a request for an incentive.