



**PLANNING COMMISSION HEARING DATE: AUGUST 18, 2022
AGENDA ITEM NO.: 3**

SUMMARY

Case Numbers	PR-2022-001391 (Zoning Text Amendment)
Request	<p>Proposal by the City of Riverside to consider amendments to Title 19 (Zoning) of the Riverside Municipal Code, including but not limited to Articles VII (Specific Land Use Provisions), VIII (Site Planning and General Development Provisions), IX (Land Use Development Permit Requirements and Procedures) and X (Definitions) of Title 19. The proposed amendments are intended to:</p> <ol style="list-style-type: none">1) Establish Chapter 19.535 (Inclusionary Housing) to implement Housing Element (General Plan) policies to facilitate the production of housing affordable to very low-, low- and moderate-income households in new residential development projects;2) Repeal and replace Chapter 19.545 (Density Bonus) to clarify and streamline existing provisions and align the City's Density Bonus program with recently adopted State law; and3) Complete clean-up items for Title 19 to:<ol style="list-style-type: none">A. Clarify side and rear yard setback requirements for the Industrial and Air Industrial Zones;B. Clarify setback requirements and permit exemptions for on-sale of alcoholic beverages associated with bona fide full-service public eating places;C. Adjust parking requirements and allowances for the provision of off-site, off-street vehicle parking for certain land uses; andD. Revise the required findings of fact for the granting of Fair Housing Requests for Reasonable Accommodation to comply with State law and affirmatively further fair housing.E. Establish definitions related to the Inclusionary Housing and Density Bonus Ordinances.
Applicant	City of Riverside, Community and Economic Development Department

Project Location	Citywide
Ward	Citywide
Staff Planner	Matthew Taylor, Senior Planner 951-826-5944 mtaylor@riversideca.gov

RECOMMENDATIONS

That the Planning Commission:

1. **Recommend** that the City Council determine that Planning Case PR-2022-001391 is exempt from further California Environmental Quality Act (CEQA) review pursuant to Section 15061(b)(3) (General Rule), as it can be seen with certainty that approval of the project will not have an effect on the environment;
2. **Recommend Approval** of the Planning Case PR-2022-001391 (Zoning Text Amendment) as outlined in the staff report and summarized in the Findings section of this report.

BACKGROUND

Inclusionary Housing

In recent years, the State of California has identified the shortage of housing, particularly affordable housing, as a legislative priority. A housing shortage negatively impacts the State's economic competitiveness, contributes to homelessness, and results in long commutes, increasing production of greenhouse gas emissions, air pollution, and poor public health. A household is considered able to afford its housing if its total housing-related expenses do not exceed 30-35% of its gross income. Affordable housing frequently refers to housing that is priced so that it does not exceed this threshold for households who earn at or below 80% of the Area Median Income (AMI), which in Riverside is \$70,400 for a family of four in 2022.

Given the existing housing conditions, on May 18, 2021, the City Council authorized hiring a consultant to explore the feasibility of implementing an inclusionary housing policy in the City of Riverside. Inclusionary housing policies typically require a portion of newly constructed residential units to be set aside, for sale or rent, to lower- or moderate-income households to increase the availability of affordable housing for all income levels.

Over the past year, City staff and the consultant have prepared a study of the feasibility of implementing such a policy in Riverside, with input and direction from the City Council Housing & Homelessness Committee (HHC). On May 23, 2022, the HRC reviewed a draft policy and feasibility analysis and directed staff to develop an ordinance to implement the policy for Planning Commission and City Council consideration (Exhibit 1).

Density Bonus

California Government Code §65915-65918, otherwise known as the Density Bonus Law, requires local jurisdictions to grant a density bonus and relief from selected development standards for residential and mixed-use development projects that include units reserved for lower-income households. In recent years, additional legislation has expanded the types of projects that qualify for a Density Bonus and increased the bonus density that eligible projects may receive.

Zoning Cleanup

Planning staff continuously tracks the applicability and accuracy of the Riverside Municipal Code (RMC) Title 19 (Zoning Code) to ensure the regulations are consistent with State Law, provide clear direction, and are not in conflict. Staff identifies inaccuracies, vagueness, and/or conflicts and tracks this information so that periodic Zoning Text Amendments can be made. This builds on the "Streamline Riverside" initiative that continually identifies and implements strategic changes to City processes. The proposed changes will provide clarity and reduce ambiguity in the Zoning Code including minor updates, revisions, and technical corrections to several Chapters and Sections.

PROPOSAL

The proposed amendments to Title 19 (Zoning) of the Riverside Municipal Code are included as Exhibit 2 and can be separated into 3 components:

1. Establishment of Chapter 19.535 (Inclusionary Housing), to implement the proposed inclusionary housing policy as recommended by the Housing & Homelessness Committee;
2. Repeal and replacement of Chapter 19.545 (Density Bonus) to update the existing Density Bonus Ordinance to reflect recent changes to State law to improve clarity and usability of the Chapter; and
3. Zoning Clean-Up items:
 - a. Regulations related to landscaped setbacks, on-sale of alcohol at restaurants, off-site parking, and requests for Reasonable Accommodation and Fair Housing; and
 - b. Establishment of definitions for various terms related to the Inclusionary Housing and Density Bonus ordinances.

The following is a summary of each of the components described above.

1) INCLUSIONARY HOUSING

The proposed amendments would establish a new Chapter 19.535 (Inclusionary Housing), which would implement the draft inclusionary housing program developed by the consultant and recommended by the Housing and Homelessness Committee.

The proposed inclusionary housing program would apply to any development that creates three or more residential units or lots and will include the following requirements:

1. For-sale single family developments (up to a density of 10.9 dwelling units per acre) will include **five percent** of total units at sale prices affordable to **Moderate-Income** households earning up to 110 percent of the AMI.
2. For-sale townhome and condominium developments (densities between 10.9 and 14.5 dwelling units per acre) will include **10 percent** of total units at sale prices affordable to **Low-Income** households earning up to 70 percent AMI.
3. Rental developments of all types will include **10 percent** of total units at rents affordable to **Low-Income** households earning up to 70 percent AMI.

Developers may instead elect to build or finance building affordable units off-site but will be required to provide a higher proportion of affordable units – **eight percent** of total units in for-sale single family developments, and **15 percent** of total units in for-sale townhome and condominium developments and rentals.

Alternatively, developers will have the option to pay a fee in lieu of building the affordable units either on- or off-site. In-lieu fees would be assessed in an amount equal to the number of affordable units required if they were to be constructed off-site and deposited in a dedicated affordable housing fund managed by the City's Housing Authority to facilitate the construction, acquisition and preservation of affordable housing. Fees will be calculated based on a nexus study performed by the consultant and set by resolution of the City Council.

The proposed Chapter 19.535 also includes requirements and regulations for:

1. Minimum duration of affordability restrictions (45 to 55 years);
2. Provisions limiting the resale of for-sale affordable units to income-qualified households or, alternatively, requiring equity sharing arrangements to preserve affordability;
3. Requirements for equitable distribution, size and fixtures and finishes of affordable units compared to market-rate units;
4. Procedures for appealing for an adjustment or waiver of inclusionary requirements; and
5. Procedures for ensuring ongoing compliance and monitoring of affordability restrictions, administration and enforcement.

2) DENSITY BONUS

The proposed amendments would repeal and replace the existing Chapter 19.545 (Density Bonus), the Density Bonus Ordinance (DBO). The two primary purposes of this amendment are to:

1. Bring the City's existing DBO into compliance with recently adopted State Law governing density bonuses (Cal. Gov. Code §65915-65918); and
2. Reorganize and streamline the DBO to improve readability and ease of use.

Major changes to the State's Density Bonus law enacted with recent legislation including, but not limited to, Senate Bill 290 (Exhibit 3) and Assembly Bill 2345 (Exhibit 4) increase the maximum amount of bonus density for which a project may qualify from 35% over the allowed base density to 50% over the allowed base density in most cases. To qualify for a density bonus, the development must set aside a minimum proportion of units for lower- or moderate-income households or various special needs populations. The allowable density bonus is set on a sliding scale that increases with the proportion of units that are set aside, up to the maximum bonus amount.

Beyond this, projects that are 100% affordable to lower- and moderate-income households may qualify for a density increase of up to 80%, as well as allowances for additional building height. Projects that are both 100% affordable to lower-income households and located within proximity to public transportation are not subject to any maximum controls on density.

Other changes in State Law reflected in the revised Chapter include:

1. Expansion of the types of housing development that may qualify for a Density Bonus to include housing for low-income students;
2. Changes in the amount of affordable housing required for developments to qualify for concessions and incentives (such as reduction of development standards); and
3. A reduction in the amount of parking a local jurisdiction may require for eligible projects, including no required parking for 100% affordable projects in proximity to high-quality public transit.

3) ZONING CLEAN-UP

1. Chapter 19.130 – Industrial Zones

Table 19.130.030.A (Industrial Zones Development Standards) is amended to eliminate a conflict between the table and table notes related to interior side and rear landscaped setback requirements for the General Industrial (I) and Airport Industrial (AIR) Zones and to clarify the method for measuring distances from residential zones or uses.

2. Chapter 19.450 – Alcohol Sales

Amendments to this Chapter resolve an ambiguity between general site location, operation and development standards for the sale of alcoholic beverages for on-site consumption ("on-sale") and specific exemptions for on-sale in conjunction with bona fide public eating places (i.e., restaurants). If a restaurant meets the specific exemption criteria of 19.450.020.B, it shall not be subject to the site location and operational requirements of 19.450.030.C. This amendment only clarifies, and does not change, the exemption criteria for restaurants.

3. Chapter 19.580 – Parking and Loading - Table 19.580.060 – Required Spaces:

- a. Table Notes 10 through 13, related to allowances for the satisfaction of parking requirements for certain uses through the provision of off-site spaces within a specified distance, are consolidated to create a single requirement allowing those uses to meet their required parking with spaces within 300 feet of the site.
- b. A reduction in required parking from 1.1 spaces per bed to 0.5 spaces per bed is provided for student housing developments within one-quarter mile (1,320 feet) of major transit stop or a college or university campus. This is consistent with reduced parking requirements provided in State density bonus law for this type of development established by AB 2345.

4. Chapter 19.850 – Fair Housing and Reasonable Accommodation

This chapter is amended to align procedures and findings for granting a Request for Reasonable Accommodation with State and Federal Fair Housing Laws. Specifically, references to processing procedures and findings required for the granting of a Variance are eliminated, as these are inconsistent with Fair Housing laws, which require that cities accommodate reasonable requests for deviation from established standards for special needs persons or households. This amendment affirmatively furthers fair housing by ensuring that special needs households have an avenue for requesting necessary accommodations for

accessibility purposes and is an implementation action of the 2021-2029 Sixth-Cycle Housing Element.

5. Chapter 19.910 – Definitions

This chapter is amended to add definitions for terms used in the proposed Chapters 19.535 (Inclusionary Housing) and revised 19.545 (Density Bonus).

PUBLIC OUTREACH AND COMMENT

Details of stakeholder outreach and engagement for the Inclusionary Housing Program can be found in the report to the Housing and Homelessness Committee meeting of February 28, 2022 (Exhibit 5). In addition to monthly updates to the Committee during preparation of the feasibility study, the following stakeholder engagement efforts should be noted:

1. November 5, 2021 – Virtual stakeholder meeting with affordable housing developers and advocates.
2. November 16, 2021 – Virtual stakeholder meeting with market-rate housing developers and businesses.
3. January 12, 2022 – Virtual community webinar.
4. January 25, 2022 – Virtual webinar with the Greater Riverside Chambers of Commerce.
5. June 28, 2022 – Stakeholder meeting with the Greater Riverside Chambers of Commerce Economic Development Council.

On July 19, 2022, Planning staff also sent an email notification to applicants of record for all ongoing housing development applications with three or more proposed units. This included all applicants with Conceptual Development Review (preliminary) applications processed within the past year. The notice informed them of the proposed Inclusionary Housing Program and invited their participation in upcoming Planning Commission and City Council Hearings. The program summary that was provided to developers in included as Exhibit 6.

ENVIRONMENTAL REVIEW

The proposed amendments are exempt from additional California Environmental Quality Act (CEQA) review pursuant to Section 15061(b)(3) of the CEQA guidelines, as it can be seen with certainty that the proposed amendments will have no effect on the environment.

FINDINGS

Zoning Code Amendment Findings pursuant to Chapter 19.810.040:

- 1) The proposed Zoning Code Amendments and Rezoning are generally consistent with the goals, policies, and objectives of the General Plan including the updated Housing Element;
- 2) The proposed Zoning Code Text Amendments and Rezoning will not adversely affect surrounding properties; and

- 3) The proposed Zoning Code Text Amendments and Rezoning will promote public health, safety, and general welfare and serves the goals and purposes of the Zoning Code.

ENVISION RIVERSIDE 2025 STRATEGIC PLAN ALIGNMENT

The proposed amendments align with Strategic Priority No. 2 – Community Well-Being, and more specifically with Goal 2.1 – Facilitate the development of a quality and diverse housing supply that is available and affordable to a wide range of income levels. In addition, the project aligns with the five Cross-Cutting Threads as follows:

1. **Community Trust** – The process included an extensive community and stakeholder engagement process.
2. **Equity** – The proposed amendments will expand the availability of affordable housing options for all Riversiders.
3. **Fiscal Responsibility** – The proposed amendments create a new stream of revenue for affordable housing projects in the City.
4. **Innovation** – The proposed amendments incorporate latest best practices for streamlining and promoting housing development and promote equitable communities.
5. **Sustainability & Resiliency** – The proposed promote infill development that will help reduce greenhouse gas emissions by reducing vehicle miles traveled, as well as providing an alternative to greenfield sprawl development.

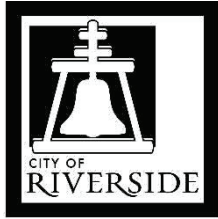
APPEAL INFORMATION

Actions by the City Planning Commission, including any environmental finding, may be appealed to the City Council within ten calendar days after the decision. Appeal filing and processing information may be obtained from the Planning Department Public Information Section, 3rd Floor, City Hall.

EXHIBITS LIST

1. Housing and Homelessness Committee Report – May 23, 2022
2. Proposed Title 19 Amendments
 - a. Chapter 19.130 – Industrial Zones
 - b. Chapter 19.450 – Alcohol Sales
 - c. Chapter 19.535 – Inclusionary Housing
 - d. Chapter 19.545 – Density Bonus
 - e. Chapter 19.580 – Parking and Loading
 - f. Chapter 19.850 – Fair Housing and Reasonable Accommodation
 - g. Chapter 19.910 – Definitions
3. Senate Bill 290 Text
4. Assembly Bill 2345 Text
5. Housing and Homelessness Committee Report – February 28, 2022
6. Inclusionary Housing Recommendation Summary
7. Presentation

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City of Arts & Innovation

Housing and Homelessness Committee Memorandum

**TO: HOUSING AND HOMELESSNESS
COMMITTEE MEMBERS**

DATE: MAY 23, 2022

FROM: OFFICE OF HOMELESS SOLUTIONS

WARDS: ALL

**SUBJECT: UPDATE ON CITY OF RIVERSIDE INCLUSIONARY HOUSING PROGRAM
FEASIBILITY STUDY**

ISSUE:

Receive an update related to the City of Riverside Inclusionary Housing Program study and preliminary recommendations for elements of a potential inclusionary housing ordinance.

RECOMMENDATIONS:

That the Housing and Homelessness Committee:

1. Receive an update on the Inclusionary Housing Program Study for the City of Riverside, including preliminary recommendations on elements of a potential inclusionary housing ordinance; and
2. Provide direction on the recommendations listed in Attachment 4 to be included in an Inclusionary Housing Ordinance to be considered by the City Council.

BACKGROUND:

In recent years, the State of California has identified the shortage of housing, particularly affordable housing, as a legislative priority. A housing shortage impacts the State's economy, contributes to homelessness, and results in long commutes, increasing production of greenhouse gas emissions, air pollution, and poor public health. Affordable housing is defined as rent/utilities or mortgage/taxes/insurance/utilities that cost 30% or less of the gross household income and are available to persons who earn at or below 80% of the Area Median Income (or \$63,200 for a family of four in 2021). The State further delineates affordability levels for "low-income" households, earning between 50% and 80% of the Area Median Income; and for "very-low income" households, earning between 30% and 50% of the Area Median Income. The State also defines households earning "moderate incomes," between 80% and 120% of Area Median Income.

Facing a rise in local rents and housing costs, a steady rise in homelessness, and a decrease in homeownership associated with the high cost of housing, on May 18, 2021, the City Council and Housing Authority Board authorized the award of an Agreement with Economic & Planning

Systems, Inc., (EPS) to explore the possibility of implementing an inclusionary housing policy in the City of Riverside.

By definition, inclusionary housing policies are local policies that could require developers to sell or rent a percentage of new residential units to lower-income residents or pay an in-lieu fee to support the development of such units. To offset the cost of providing affordable housing in all new projects, an Inclusionary Housing Program can offer incentives to developers in the form of zoning concessions such as reduced parking, density bonuses, or tax abatements. Developers can also be given an option to choose an alternative to providing the affordable units in the form of in-lieu fees or providing affordable units at an alternate location. Inclusionary Housing Programs can include both for-sale and rental units and are often implemented through the jurisdiction's zoning code.

On September 28, 2021, City staff and EPS presented to the Housing and Homelessness Committee the initial analysis of the development feasibility impacts of a range of inclusionary policy alternatives on new market-rate residential development. At that meeting, the Committee directed Housing Authority staff and EPS to proceed with the next steps of the study, including stakeholder and community outreach.

On February 28, 2022, City staff and EPS presented to the Housing and Homelessness Committee on refined analysis of development feasibility impacts of a range of inclusionary policy alternatives on new market-rate residential development, as well as stakeholder outreach undertaken as part of the study effort. City staff and EPS provided the Housing and Homelessness Committee with recommendations for a potential inclusionary housing requirement for the City. At the meeting, the Committee provided guidance on several elements of a potential inclusionary housing program and directed City staff and EPS to develop a draft inclusionary housing policy for Committee consideration and discussion.

DISCUSSION:

Nexus Study

At the City's request, EPS has prepared a nexus study that illustrates the impact that new market-rate housing can have on the need for affordable housing. The relationship is based on the idea that the occupants of new housing units in Riverside will require goods and services, and the number of employees needed to provide those goods and services can be expected to grow accordingly. Based on the typical incomes of workers in the retail and service industries, many workers will qualify for housing at moderate- or lower-income pricing. The scale of this increased demand will be affected by the incomes of the occupants of the new market-rate housing units, because higher-income households tend to spend more, creating more service industry jobs than available workers.

Using prevailing market-rate pricing for apartments, single-family attached homes (or townhomes), and single-family detached homes in Riverside, EPS estimated the incomes required to rent or purchase such units, and then applied consumer expenditure survey data to those income levels to estimate the new household spending and therefore revenues that would be expected in different types of businesses. EPS then used established industry-specific ratios of revenues to wages to estimate the number of employees that would be added in the local economy.

Not every employee will form a unique household, as many will live with another working adult and others at younger ages may be expected to still live with their parents, so the number of new

households attributed to this new spending is well below the number of new employees. The estimated incomes of those new employee-based households determine the proportion of affordable housing demand that can be attributed to new market-rate housing growth.

For example, a household buying a typical new single-family detached home in Riverside is likely to earn about \$129,000 based on the average home price of \$625,000. That same household can be expected to spend about \$6,600 annually eating at restaurants (“food away from home”), so 1,000 such households (scaled up to make the math more understandable) would spend about \$6.6 million in that category. That spending would support roughly 95.4 workers in “food services and drinking places,” and those workers can be expected to form roughly 41.7 households that would qualify as “low income.” Similar relationships in other spending categories determine the aggregate impact that the typical new homebuying households are likely to have on demand for affordable housing in Riverside.

The inclusionary housing nexus study supports the following inclusionary requirements:

- *Multifamily*: 12.6% total, including 8.0% of units affordable to low-income households and 4.6% of units affordable to moderate-income households
- *High-Density/Attached Single Family (e.g., Townhomes)*: 10.6% total (rounded), including 6.4% of units affordable to low-income households and 4.3% of units affordable to moderate-income households
- *Low-Density/Detached Single Family*: – 14.4% total, including 9.1% of units affordable to low-income households and 5.3% of units affordable to moderate-income households

The nexus study further details and informs discussions regarding the appropriate proportions and income levels for the inclusionary housing ordinance.

If the City moves forward with an Inclusionary Housing Ordinance, these inclusionary requirements would be codified in Title 19 – Zoning. However, there is no legal obligation for the City to constrain itself to the results of the nexus study, as inclusionary housing ordinances have not been subject to the requirements of the Mitigation Fee Act and are authorized and recognized by State and case law as an allowable expression of the City’s “police powers” to regulate development in the public interest.

Inclusionary Housing Ordinance Elements

EPS and City staff have been collaborating on a draft inclusionary housing ordinance for consideration by the Planning Commission and City Council. There are several elements of the ordinance that require additional decisions by the Committee, as detailed below:

1. Inclusionary Requirements

Decision Point: What will be the inclusionary requirements (percentage of unit, affordability level) be for different residential development types?

Options: EPS’s feasibility analysis looked at four types of residential products: low-density single-family, high-density single-family (aka townhomes), mid-density multifamily, and high-density multifamily. The feasibility analysis was conducted at a variety of inclusionary percentage and affordability levels (see Attachment 1, Figures 1-3), which indicated that multifamily rental and higher-density single-family attached projects (e.g., townhomes) are more likely to be able to support inclusionary units than are lower-density single-family detached projects

EPS also looked at the inclusionary requirements of other cities in and around the Inland Empire, as illustrated in Attachment 2, Figures 4 and 5.

The City can adopt any mix of percentages and levels desired, including those not analyzed by EPS, but the ordinance may be subject to review by the California Department of Housing and Community Development (HCD) if the inclusionary standards exceed 15% of units at low income.

Recommendation: Based on EPS's market and development feasibility analysis, the following recommended inclusionary requirements were provided at the February 28, 2022 Housing and Homelessness Committee Meeting:

Development Type	% of Units	Affordability Level
Multifamily	10%	Low-income 70% of Area Median Income (AMI)
High-Density Single Family (e.g., Townhome)	10%	Low-income 70% of AMI
Low-Density Single-Family	5%	Moderate-income 110% of AMI

**These requirements would automatically qualify projects for use of State density bonus*

These suggested levels are also within the demand-based parameters established through the nexus study. At these levels, Riverside's inclusionary standards would generally fall within the range of other Southern California jurisdictions surveyed but would be on the lower/less aggressive end of that range.

2. Exemptions to Inclusionary Housing Requirement

Decision Point: Should there be projects that are exempt from the inclusionary housing requirement?

Options: Many cities exempt new residential projects under a certain unit size from inclusionary housing requirements. For example, in the City of Pomona, projects with fewer than three (3) dwelling units are exempt from inclusionary housing requirements. Other cities exempt projects with fewer than six units, or fewer than ten units. Depending on the adopted inclusionary housing percentage, smaller projects may only be required to provide a fraction of a unit; in this case, many cities allow the project to pay an in-lieu fee on the fractional unit required.

It is also common to exempt projects that are at a certain stage in the development process at the time of adoption of the inclusionary housing ordinance, in recognition that the developer was not able to factor the requirement into their financial considerations before submittal. For example, the City may exempt any project that has submitted a complete application by the time of adoption or other effective date, and only any new application after that time would be subject to the requirement.

Recommendations:

1. Exempt residential projects with fewer than three units from the inclusionary housing requirement.
2. Exempt residential projects that have submitted a complete application (i.e., the project is ready to be considered by the approval authority) by the effective date of the inclusionary housing ordinance.

3. Affordability Term

Decision Point: What is the minimum term (in years) of affordability for affordable units?

Options: Most inclusionary programs set a minimum amount of time that affordable units must stay affordable. Some options for these terms include:

- For rental units, a typical affordability term is 55 years including in State density bonus law, although some cities have longer terms.
- For for-sale units, there are several options:
 - The City can set an affordability term – for example, 45 years, which is the standard in State density bonus law – and limit the re-sale of the unit to income-qualified households for the duration of that term
 - The City can set the affordability term to renew each time the unit is sold.
 - The City can decline to set an affordability term, but rather require an “equity sharing agreement” on the unit. This would allow the income-qualified buyer to sell the unit at market rate. However, the City would recoup some portion of the sale price, which could be reinvested into new affordable housing. The benefit of this approach is that it allows lower-income households to benefit from building equity in the unit. The drawback is that once the unit is sold, it is no longer part of the City’s affordable housing stock and the City’s share of the equity from the unit’s resale may be inadequate to subsidize that unit’s replacement.

Recommendation: Set an affordability term of 55 years for rental units and 45 years for for-sale units. This approach aligns with State density bonus law.

4. Size of Affordable Housing Units

Decision Point: Can required affordable housing units be smaller than market-rate units?

Options: The Housing and Homelessness Committee provided direction that inclusionary housing affordable units should be similar to market-rate units in terms of finishes, features, and access to amenities. Many cities have similar requirements but do allow for developers to build affordable units that are slightly smaller (e.g., 10 percent smaller) than the average market-rate unit. For example, this flexibility is allowed in the inclusionary housing ordinances in the cities of Pomona and South Pasadena.

Recommendation: For multifamily rental projects, require on-site or off-site affordable units to reflect the mix of market-rate units (e.g., same proportion of one-bedrooms, two-bedrooms, etc.) and have net leasable areas of at least 90 percent of the average size of the market-rate units of similar bedroom counts.

5. For-Sale Projects Meeting Requirement with Affordable Housing Rental Units

Decision Point: Can for-sale projects meet their inclusionary housing requirement by developing affordable housing rental units?

Options: Under the premise that rental multifamily units may be the most cost-effective format for providing affordable housing, some cities allow developers of for-sale single-family residential projects to meet their inclusionary requirement by building affordable rental units, either on the same site as the market-rate project or elsewhere in the City. Both the cities of South Pasadena and Pomona provide this option.

If this option is used, the City can require that the number of affordable rental units is equal to the number of affordable for-sale units that the developer would have been required to build; or they can require that the number of affordable rental bedrooms is equal to the numbers of affordable for-sale bedrooms that the developer would have been required to build if they had built units similar to the market-rate units. For example, if a for-sale project includes 100 four-bedroom homes, and the inclusionary requirement is 10%, the project would be required to provide 10 affordable units. If they are built as four-bedroom homes, that would equal 40 affordable bedrooms. If the developer built affordable rental units instead, they could be required to build 40 affordable bedrooms in any configuration (e.g., 20 two-bedroom rental units or 40 one-bedroom units), rather than 10 affordable four-bedroom rental units.

Recommendation: Allow for-sale projects to meet their inclusionary requirement by building affordable rental units on the same site as the market-rate project or elsewhere in the City within reasonable proximity of the primary project (see below). Allow the requirement to be met by providing the required number of affordable bedrooms in any configuration, rather than the required number of units similar in size to the market-rate units.

6. Off-Site Affordable Housing Units

Decision Point: Can residential projects meet their inclusionary housing requirement by providing affordable housing units off-site?

Options: Some cities allow developers to meet their inclusionary requirement by building affordable units elsewhere in the City, rather than as part of the market-rate project. In some cases, the inclusionary requirement is higher if the units are built off-site. For instance, the City of Pomona requires that 13 percent of units are affordable to moderate-income households if built as part of the market-rate project, but if the affordable units are built off-site, the number of affordable units must be equivalent to 15 percent of the market-rate units and must be affordable to low-income households.

Some cities also require that the off-site affordable units be within a maximum distance from the market-rate project (e.g., within two miles), and that the off-site affordable units cannot be built in an area with an “overconcentration” of existing affordable units. For example, the City of Pomona’s inclusionary housing ordinance specifies that “The inclusionary units shall not create an overconcentration of deed restricted affordable housing units in any specific neighborhood. For purposes of this section, “overconcentration” is defined as more than 50 deed restricted very low or low-income dwelling units within $\frac{1}{4}$ mile of the site of the proposed inclusionary units, or more than 200 of such units within $\frac{1}{2}$ mile of the site of the proposed inclusionary units.

Recommendation: Allow developers to meet their inclusionary housing requirement by providing affordable housing units off-site. Require that the number of off-site affordable housing units be equivalent to a higher proportion of the market-rate units than if the inclusionary requirement is met on-site. Define a maximum distance from the market-rate project site for the off-site affordable units. Develop a definition of overconcentration and restrict the development of off-site affordable units to prevent overconcentration of these units.

7. In-Lieu Fee

Decision Point: Are there any limitations on when a project can pay an in-lieu fee instead of providing on-site or off-site affordable housing units?

Options: The City is required to provide alternative means of compliance with the inclusionary housing requirement. An in-lieu fee is a common alternative means, and EPS has calculated the in-lieu fees that would be aligned with the recommended inclusionary requirements (and can re-calculate depending on the requirements adopted). While some cities allow for any residential market-rate project to pay an in-lieu fee instead of providing affordable units, others place limitations on when an in-lieu fee can be paid. Some common limitations include:

- In-lieu fee can only be paid on fractional required affordable units (e.g., a 12-unit project with a 10% requirement would build one affordable unit and pay the in-lieu fee on the additional 0.2 required units).
- In-lieu fee can only be paid by projects of a particular size (e.g., smaller than certain number of units) or particular type (e.g., only for-sale projects or only rental projects)

The City also has the discretion to set the in-lieu fee at a level that would incentivize the development of affordable units rather than payment of the fee. For example, the on-site inclusionary requirement could be 10% of units at low income, but the off-site requirement and in-lieu fee could be calculated to reflect 12% of units at low income.

During the stakeholder outreach with market-rate and affordable housing developers alike, there was significant interest in allowing in-lieu fees liberally. The market-rate developers believed that fee payments would be less financially onerous, and affordable housing developers indicated that such fees could provide much-needed local matching funds to support their overall financing efforts. However, the City would need to weigh this interest in fee generation with the trade-offs of not having affordable units built at the same time and in the same locations as the market-rate units paying the fees.

Recommendation: Allow payment of an in-lieu fee only for fractional units required for multifamily and townhome projects but allow in-lieu fees for all inclusionary housing units required for single-family detached projects of any size.

8. Other Alternative Means of Compliance

Decision Point: What other alternative means of compliance will the City allow?

Options: In addition to the in-lieu fee, other common alternative means of compliance include:

- Land dedication, often within a certain distance of the market-rate project;
- Acquisition and rehabilitation of existing units to be rented or sold at affordable levels; and/or
- Extension of affordability covenants on existing affordable units.

These alternative means are often allowed on a discretionary basis, to be determined by the City Council or other body. The deliberation to accept or reject such alternative means frequently involves both qualitative and quantitative considerations, ultimately resulting in a determination that the alternative means equals or exceeds the “value” of the standard inclusionary requirement. In this case, the perceived “value” can be based on the number of affordable units, their income levels, the ability to provide affordable units for underserved populations or neighborhoods, the challenges of replacing existing lower-priced units, etc. However, as a discretionary action rather than a prescribed formula, it can be difficult for developers to predict what alternatives will and will not be accepted, introducing risk and uncertainty as well as the potential perception of arbitrary decision-making.

Recommendation

Allow developers to propose an alternative means of compliance, subject to Council findings that the alternative provides equal or greater value relative to the standard inclusionary requirements.

STRATEGIC PLAN ALIGNMENT:

This item contributes to **Strategic Priority 2: Community Well-Being** and **Goal No. 2.1** - Facilitate the development of a quality and diverse housing supply that is available and affordable to a wide range of income levels.

This item aligns with each of the five Cross -Cutting Threads as follows:

1. **Community Trust** — The initiative to explore an inclusionary policy merges best practices in policy development with intensive outreach and communication with both the development community and public to be transparent and make decisions based on sound policy, and inclusive community engagement based on timely and reliable information.
2. **Equity** — Inclusionary Housing promotes the integration of affordable housing into the City's market rate stock which allows people of different races, backgrounds, and economic circumstances to live throughout Riverside, lessening the concentration of poverty and broadening the experiences of those who live in affordable/ market mixed units.
3. **Fiscal Responsibility** — By tapping local development resources to ensure a balanced housing market, Riverside is a prudent steward of public funds and ensures responsible management of the City' s financial resources while providing quality of life to all residents.
4. **Innovation** — Exploring inclusionary housing potentially creates a development tool to address changing needs and prepares for the future through collaborative partnerships and adaptive processes in consultation with the public and development community.
5. **Sustainability & Resiliency** — By creating a balanced housing market, Riverside is ensuring a balanced economy that serves all income levels of city residents but does not sacrifice growth.

FISCAL IMPACT:

There is no fiscal impact associated with the report.

Prepared by: Michelle Davis, Housing Authority Manager
Certified as to
Availability of funds: Edward Enriquez, Interim Assistant City Manager/Chief Financial Officer/Treasurer
Approved by: Lea Deesing, Assistant City Manager
Approved as to form: Phaedra A. Norton, City Attorney

Attachments:

1. Feasibility Analysis

2. Sample of Inclusionary Housing Standards
3. Nexus Study
4. Committee Recommendation
5. Presentation

PART II - CODE OF ORDINANCES
Title 19 - ZONING
ARTICLE V - BASE ZONES AND RELATED USE AND DEVELOPMENT PROVISIONS
Chapter 19.130 INDUSTRIAL ZONES (BMP, I, AI AND AIR)

Chapter 19.130 INDUSTRIAL ZONES (BMP, I, AI AND AIR)

19.130.030 Development standards for Industrial Zones.

A. Table 19.130.030.A (BMP, I and AIR Industrial Zones Development Standards) sets forth the minimum development standards for all development in the BMP, I, and AIR Zones.

B. Table 19.130.030.B (AI Industrial Zones Development Standards) sets forth the minimum development standards for all development in the AI Zones.

(Ord. 7331 §7, 2016; Ord. 6966 §1, 2007)

Table 19.130.030.A
BMP, I and AIR Industrial Zones Development Standards

Development Standards	BMP	I	AIR	Notes, Exceptions & Special Provisions
Floor-Area-Ratio (FAR) - Maximum ^{1, 3}	1.50	0.60	0.60	See Chapter 19.149- Airport Land Use Compatibility
Lot Area - Minimum	40,000 sq. ft. ²	10,000 sq. ft.	8,000 sq. ft.	
Lot Width - Minimum	140 ft.	60 ft.	60 ft.	
Lot Depth - Minimum	100 ft.	100 ft.	100 ft.	
Building Height - Maximum ³	—	—	—	See Chapter 19.149- Airport Land Use Compatibility
a. Within 200 feet of a Residential Zone or use ^{6, 7}	35 ft.	35 ft.	35 ft.	
b. All other locations	45 ft.	45 ft.	45 ft.	
Building Size - Maximum	—	—	—	Gross floor area, exclusive of mezzanine. Multiple buildings allowed provided the maximum FAR is not exceeded.
a. Within 200 feet of a Residential Zone or use ^{6, 7}	10,000 sq. ft.	10,000 sq. ft.	10,000 sq. ft.	
b. 200-800 feet of a Residential Zone or use ^{6, 7}	100,000 sq. ft.	100,000 sq. ft.	100,000 sq. ft.	
c. All other locations	Per FAR	Per FAR	Per FAR	
Front Yard Setback - Minimum ^{5, 6}	—	20 ft.	15 ft.	In the BMP Zone, 20-feet of the required 50-foot front yard setback shall be landscaped ^d .
a. Buildings over 30 ft. in height or on an arterial street	50 or 40 ft. ⁴ (See Notes)	—	—	However, a 40-foot front yard setback shall be permitted if it is landscaped in its entirety.

Development Standards	BMP	I	AIR	Notes, Exceptions & Special Provisions
b. Buildings 30 ft. or less in height and not on an arterial street	20 ft. (See Notes)	—	—	In the BMP zone, the 20-foot front yard setback required for buildings 30-feet or less in height shall be landscaped in its entirety.
Side Yard setbacks - Minimum ⁵	<u> </u>	<u> </u>	<u> </u>	
a. Interior Side	0 ft.	0 ft.	0 ft.	
b. Adjacent to Residential Zone or use ^{6,7}	60	60	60	Not less than 15 feet of the minimum side yard setback area directly adjacent to a Residential Zone or use shall be fully landscaped.
c. Street side	Same as Front Yard	20 ft. ⁷	15 ft. ⁷	<u>Minimum 10 feet fully landscaped.</u>
Rear Yard Setback - Minimum	—	—	—	
a. Rear yard	0 ft.	0 ft.	15 ft.	
b. Adjacent to Residential Zone or use ^{6,7}	60 ft.	60 ft.	60 ft.	Not less than 15 feet of the minimum rear yard setback area directly adjacent to a Residential Zone or use shall be fully landscaped.
c. Adjacent to Streets	Same as Front Yard	20 ft. ⁷	20 ft. ⁷	<u>Minimum 10 feet fully landscaped.</u>

Notes:

1. The Approving or Appeal Authority may allow a development project to exceed a maximum FAR when findings can be made that such project (a) will not have a detrimental effect on infrastructure and municipal services, (b) will not adversely impact the surrounding neighborhood, and (c) will not likely set a precedent for additional development that would adversely affect infrastructure, service or surrounding land uses.
2. Smaller minimum lot areas may be established by a specific plan or master plan in the BMP Zone. A master plan must include provisions for common access, parking and maintenance. A total master plan area of five acres is required. Site plan review approval by the Community & Economic Development Director or his/her designee is required for any master plan.
3. See Chapter 19.149 - Airport Land Use Compatibility to determine if a project site is subject to Airport Land Use Compatibility Plan requirements.
4. In the BMP Zone, off-street parking, gate or guard houses, roofs or canopies covering unenclosed pedestrian walks and walls or fences not more than six feet in height shall be permitted in the rear 30 feet of the required 50-foot front yard setback.
5. ~~A minimum ten-foot on-site landscape planter shall be required along the street side yard and rear yards of the I and AIR Zones.~~
- 6.5. A minimum front yard setback of 50 feet shall be required and maintained wherever a lot or parcel in any industrial zone abuts or is adjacent to a lot or parcel in any residential zone or use.
- 7.6. Except where the site is separated from such residential zone or use by a freeway.
7. Measured from the residential zone or property line to the industrial building.

Table 19.130.030.B
AI Industrial Zones Development Standards

Development Standards	Zones			
	AI-1	AI-2	AI-3	AI-4
Floor Area Ratio (FAR) - Maximum ^{3, 5}	1.50	1.50	1.50	1.50
Lot Area - Minimum ²	5 acres			
Major Arterial Frontage		40,000 sq. ft.	40,000 sq. ft.	40,000 sq. ft.
All other streets		20,000 sq. ft.	20,000 sq. ft.	14,000 sq. ft.

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(Supp. No. 16)

Development Standards	Zones			
	AI-1	AI-2	AI-3	AI-4
Lot Width - Minimum	300 ft.			
40,000 sq. ft. Lot (Major Arterial Frontage)		140 ft.	140 ft.	140 ft.
20,000 sq. ft. Lot		100 ft.	100 ft.	
14,000 sq. ft. Lot				100 ft.
Building Height - Maximum ^{3, 4}	45 ft.	45 ft.	45 ft.	45 ft.
Front Yard Setback - Minimum	50 ft. (front 20 ft. landscaped)			
40,000 sq. ft. Lot (Major Arterial Frontage)		50 ft. (front 20 ft. landscaped)	50 ft. (front 20 ft. landscaped)	50 ft. (front 20 ft. landscaped)
20,000 sq. ft. Lot		20 ft. (all landscaped)	20 ft. (all landscaped)	
14,000 sq. ft. Lot				15 ft. (all landscaped)
Side Yard Setback - Minimum ¹	20 ft.			
40,000 sq. ft. Lot (Major Arterial Frontage)		20 ft.	20 ft.	20 ft.
20,000 sq. ft. Lot		None	None	
14,000 sq. ft. Lot	20 ft.			None
Rear Yard Setback - Minimum ¹	20 ft.			
40,000 sq. ft. Lot (Major Arterial Frontage)		20 ft.	20 ft.	20 ft.
20,000 sq. ft. Lot		None	None	
14,000 sq. ft. Lot				None

Notes:

1. The side or rear yard setback shall be the same as the required front yard setback wherever a side or rear yard abuts any lot zoned for residential use.
2. Smaller minimum lot areas may be established by a specific plan or airport master plan. A master plan must include provisions for common access, parking and maintenance. A total master plan area of five acres is required. Site plan approval by the Community & Economic Development Director or his/her designee is required for any master plan.
3. See Chapter 19.149 - Airport Land Use Compatibility to determine if a project site is subject to Airport Land Use Compatibility Plan requirements.
4. No building, structure or tree may penetrate the flight zone of an airport per the "imaginary surfaces" established by Federal Aviation Regulations FAR Part 77.25. Any height variance will be subject to the approval of the Community & Economic Development Director or his/her designee and Airport Director.
5. The Approving or Appeal Authority may allow a development project to exceed a maximum FAR when findings can be made that such project (a) will not have a detrimental effect on infrastructure and municipal services, (b) will not adversely impact the surrounding neighborhood, and (c) will not likely set a precedent for additional development that would adversely affect infrastructure, service or surrounding land uses.

(Ord. 7541 , §§ 2(Exh. A), 3(Exh. B), 2020; Ord. 7413 , § 1(Exh. A), 2-20-2018)

Chapter 19.535. INCLUSIONARY HOUSING

19.535.010 Purpose and intent.

The purpose of this Chapter include:

- A. To ensure the development and availability of decent housing to a broad range of households of varying income levels throughout the City.
- B. To add affordable housing units to the City's housing stock.
- C. To ensure the long-term affordability of units and availability for income-eligible households.
- D. To ensure that the public and private sector partner in providing affordable housing for current and future residents of the City.
- E. To integrate housing units for all income levels in new multi-family housing development and disperse units throughout the City so as not to segregate affordable housing.

19.535.020 Exemptions.

The requirements of this Chapter do not apply to:

- A. Residential development projects resulting in the construction of one (1) or two (2) housing units and residential subdivisions resulting in two (2) lots.
- B. The reconstruction of any structures that have been destroyed by fire, flood, earthquake or other act of nature provided that the reconstruction of the site does not increase the number of residential units by three or more.
- C. Residential building additions, repairs or remodels provided that such work does not increase the number of existing units by three or more.
- D. Residential development projects that have submitted all required application materials for land use entitlement(s), provided that those applications have been accepted for review by the City as of the effective date of this article or December 31, 2022, whichever is earlier.

19.535.030 Inclusionary requirements.

Any residential development project or parcel map that includes three (3) or more dwelling units shall provide affordable units as defined in this Section.

- A. For the purposes of determining inclusionary housing requirements pursuant to this Chapter, the following income limits, as published and periodically updated for Riverside County by the State Department of Housing and Community Development, shall apply:
 - 1. Very Low-Income – household income shall not exceed fifty percent (50%) of the area median income (AMI).
 - 2. Low-Income – household income shall not exceed seventy percent (70%) of the AMI.
 - 3. Moderate-Income – household income shall not exceed one hundred ten percent (110%) of the AMI.
- B. **For-sale dwelling units.** Residential development projects that include for-sale dwelling units shall provide affordable units as follows:
 - 1. Within the boundaries of residential development project.
 - a. In all low-density residential development projects, five (5) percent of the total number of dwelling units shall be sold at an affordable sale price for moderate-income households.

- b. In all moderate-density or high-density dwelling unit developments:
 - i. Ten (10) percent of the total number of dwelling units shall be sold at an affordable sale price for low-income households.
 - ii. If any development was developed with the intent to rent the dwelling units and is converted to for-sale, inclusionary requirements for rental dwelling units shall apply.
- c. The aforementioned affordability requirements shall apply to vacant development parcels resulting from the subdivision of land by a parcel or tentative and final map.
- 2. Outside the boundaries of residential development project.
 - a. For all low-density residential development projects outside the market-rate development boundaries, eight (8) percent of the total number of dwelling units shall be sold at an affordable sale price for moderate-income households.
 - b. For all moderate-density or high-density residential development projects, fifteen (15) percent of the total number of dwelling units shall be sold at an affordable sale price for low-income households.
- C. **Rental dwelling units.** Residential development projects that include rental dwelling units shall provide inclusionary units as follows:
 - 1. Within the boundaries of residential development project, regardless of density, ten (10) percent of the total number of dwelling units shall be rented at an affordable rent for low-income households
 - 2. Outside the boundaries of residential development project, regardless of density, fifteen (15) percent of the total number of dwelling units shall be rented at an affordable rent for low-income households.
 - 3. The developer may, at its discretion, provide the required inclusionary units at an affordable rent for very low-income and low-income households.
- D. **Additional Requirements.**
 - 1. Any additional market-rate units that are allowed per Chapter 19.545 – Density Bonus will not be included in the unit count used to calculate a project's Inclusionary Housing requirements.
 - 2. Fractional housing units or parcels shall pay an in-lieu fee in the amount determined pursuant to 19.535.080.
 - 3. When a residential development project includes a combination of differing densities and/or tenure types (for-sale or rental) the required number of units by income level shall first be calculated for each category of dwelling units individually and then combined to determine the total inclusionary housing requirement.

19.535.040 Duration of affordability.

- A. **For-Sale Inclusionary Units.**
 - 1. Units must be legally restricted as for-sale and occupied by households of the income levels for which the units were designated for a term of not less than 55 years.
 - 2. During that legally restricted term, the units may only be sold and resold to households of the income levels for which the units were designated at an affordable sales price for those households.
- B. **Rental Inclusionary Units.**
 - 1. Units must be legally restricted as rental and occupied by households in the income level for which the units are developed for a term of not less than 55 years.

2. Units developed on property owned by the City, and leased to a residential developer, must be legally restricted as rental and occupied by households in the income level for which the units were developed for the duration of the land lease term.
- C. To ensure compliance with the duration requirement, an Affordable Housing Agreement and, if applicable, a Resale Restriction Agreement shall be recorded for every inclusionary unit as prescribed by the City.

19.535.050 Development standards.

- A. All Inclusionary units – On-site – Unless otherwise specified by the City Council, inclusionary units shall be developed and incorporated in the residential development project in a manner consistent with the following requirements:
 1. Location.
 - a. Inclusionary units shall be integrated throughout a residential development project and not clustered in a specific portion of the development.
 - b. The location of the inclusionary units within a residential development project shall be designated before issuance of building permits for the development.
 2. The bedroom mix for the inclusionary units must be proportional to the bedroom mix of the market rate units.
 3. The floor area of inclusionary units may be up to 10 percent smaller than the market-rate units in the project.
 4. The interior finishes, features, and appliance packages must be comparable to the base level interior finishes for the market-rate units.
 5. For-sale inclusionary units shall provide comparable infrastructure services (including sewer, water and other utilities), construction quality and exterior design to the market-rate units.
 6. Residents and tenants of affordable units shall be provided the same rights and access to common amenities as residents and tenants occupying market-rate units.
 7. Construction Timing.
 - a. The inclusionary units shall be built concurrently with the market rate units in the residential development project.
 - b. The inclusionary units may be constructed in phases if the market rate units are constructed in phases, provided that the percentage of inclusionary units is equivalent to or greater than the percentage of market rate units during each phase.
- B. Inclusionary units outside the boundary of residential development projects – Unless otherwise specified by the City Council, inclusionary units constructed outside the boundaries of the market-rate residential development project shall comply with the following requirements:
 1. The developer of the market-rate residential development project may enter into an agreement with an affordable housing developer to construct, own and operate the inclusionary units, subject to the following requirements:
 - a. The affordable housing developer:
 - i. Must provide support information for similar projects/experience within the last 3-5 years developing affordable housing.
 - ii. .
 - iii. Shall be responsible for all financing all inclusionary units.

- b. A market-rate residential development project that satisfies its inclusionary requirement with off-site inclusionary units shall not be eligible for a density bonus, concessions, incentives or waivers pursuant to Chapter 19.545 – Density Bonus.
 - c. The inclusionary units constructed outside the boundary of the market-rate residential development project to satisfy the inclusionary requirement shall be eligible for a density bonus pursuant to 19.545.
 - d. All discretionary approvals and financing for the inclusionary units must be secured prior to the market-rate, for-sale component commencing construction.
- 2. All units developed outside the boundaries of the residential development project must be constructed within the same Ward of the City as the market-rate residential development project.
 - 3. The inclusionary units shall not create an over-concentration as follows:
 - a. No more than 100 deed restricted very low- or low-income dwelling units within 500 feet of the proposed inclusionary units; or
 - b. No more than 400 deed restricted very low- or low-income dwelling units within 1500 feet of the proposed inclusionary units.
 - 4. The bedroom mix for the inclusionary units must be proportional to the bedroom mix of the market rate project.
 - 5. The floor area of inclusionary units may be up to 10 percent smaller than the units in the market-rate project.
 - 6. The interior finishes, features, appliance packages, and infrastructure services for inclusionary units shall comply with the standards established or approved by the California Tax Credit Allocation Committee for residential units developed pursuant to the federal low-income housing tax credit program.

19.535.070 Marketing inclusionary units.

- A. The developer must market the inclusionary units to eligible residents of the City of Riverside
- B. Marketing includes, at a minimum, the following:
 - 1. Notifying local government and nonprofit agencies serving income-qualified households in the City of Riverside, as identified by the City, of the availability of affordable units no later than 90 days after the issuance of building permits.
 - 2. Placing a sign on the property advertising the availability of the affordable units including contact information.
 - 3. Advertising the availability of the affordable units on social media outlets and local newspapers in multiple languages.

19.535.080 In-Lieu Fee Alternative.

- A. As an alternative to constructing inclusionary units as required by this Chapter, all or a portion of the inclusionary housing requirement may be fulfilled through the payment of in-lieu fees, pursuant to the fee schedule adopted by the City Council.
- B. The in-lieu fees shall be based on the percentage of affordable units required if the inclusionary units were provided outside the boundaries of the market-rate residential development project, pursuant to 19.535.030.
- C. Calculation of Fees.

1. In-lieu fees shall be paid for any fractional inclusionary unit based on the calculation of the required number of inclusionary units.
 2. The developer may voluntarily commit to round the fractional inclusionary unit up to the next whole unit for the in-lieu fee.
- D. Payment of Fees.
1. The required in-lieu fees shall be paid at the issuance of the first building permit for the residential development project.
 2. For phased projects, the developer may pay a pro rata share of the in-lieu fee, based on both the number of phases and units in each phase, at the issuance of the first building permit for each phase of the residential development project.
- E. All collected in-lieu fees for inclusionary housing units shall be deposited in the Inclusionary Housing Fund pursuant to 19.535.130.

19.535.090 Requirements For Selling For-Sale Inclusionary Units.

- A. The initial sales price, and any resale price, will be at an affordable sales price for the income level for which the units are designated for the duration of affordability per 19.535.040.
- B. At the time of sale, the City will determine the Initial Equity for the unit, which will equal the difference between the Fair Market Value of the unit as determined by an FHA-style appraisal and the affordable sales price.
- C. A Resale Restriction Agreement must be entered into for any change of ownership maintaining the household income restriction for the duration of affordability per 19.535.040.
- D. All for-sale inclusionary units are subject to the following:
 1. The person that purchases the inclusionary unit, owner, shall use and occupy it as their principal/primary dwelling.
 2. The owner is expressly prohibited from leasing or renting the inclusionary unit unless the City has given prior written consent to such lease or rental on the basis of a demonstrated hardship by the owner.
 3. Certificate of Continued Occupancy.
 - a. A Certificate of Continued Occupancy shall be submitted annually to the City on a City-provided form.
 - b. Default.
 - i. If the owner fails to submit the annual report in as required, notice will be given by the City of Riverside.
 - ii. If within 30-days after receiving the notice from the City, a Certificate of Continued Occupancy is not submitted, the owner will receive a second notice.
 - iii. If within 30-days after receiving the second notice from the City, a Certificate of Continued Occupancy is not submitted, the matter will be referred to the City Attorney's Office.
- E. Initial Equity Reimbursements.
 1. If the owner plans to sell the inclusionary unit during the duration of affordability, and the potential owner's household income exceeds the income level, and/or at a price that exceeds the affordable housing cost for which the units are designated, the owner shall pay to the City a percentage of the Initial Equity as calculated per this Chapter.
 2. The percentage of the Initial Equity to be paid to the City shall be determined as follows:

- a. Between years 0 and 10, 100%;
 - b. Between years 11 and 20, 80%;
 - c. Between years 21 and 30, 60%;
 - d. Between years 31 and 40, 40%;
 - e. Between years 41 and 50, 20%; and
 - f. Between years 51 and 55, 10%.
3. No percentage of the Initial Equity shall be required for any sale occurring after the duration of affordability.

19.535.100 Requirements for Occupancy of Inclusionary Rental Units.

- A. All rental inclusionary units shall be rented to households in the appropriate income category for the inclusionary units.
- B. The developer shall designate and offer rental inclusionary units for-rent to households in the appropriate income category, based on the approved Inclusionary Housing Plan.
- C. The maximum allowable rent of inclusionary units will be based on the applicable income levels for the inclusionary units.
- D. Annual report.
 - 1. The owner of the rental property shall submit an annual report to the City on a City-provided form.
 - 2. The annual report shall include the following:
 - a. A summary of documents reviewed by the owner for each inclusionary unit that demonstrate the prospective renter's total income (such as income tax returns or W-2s for the previous calendar year).
 - b. The occupancy of each rental inclusionary unit for the year.
 - 3. Default
 - a. If the owner of the rental property fails to submit the annual report in as required, notice will be given by the City of Riverside.
 - b. If within 30-days after receiving the notice from the City, an annual report is not submitted, the owner will receive a second notice.
 - c. If within 30-days after receiving the second notice from the City, an annual report is not submitted, the matter will be referred to the City Attorney's Office.

19.535.110 Adjustments or Waivers to Inclusionary Requirements.

- A. Any developer must apply for an adjustment or waiver of these requirements with their application for any discretionary or ministerial permit for the residential development project.
- B. Reasons for Adjustments or Waivers.
 - 1. The requirements of the Chapter may be adjusted or waived if the applicant demonstrates that applying the requirement would take property in violation of the United States or California Constitutions.
 - a. If the City Manager, or his/her designee, determines that applying the requirements of this Chapter, including any variances or regulatory concessions/incentives would take property in violation of the United States or California Constitutions, the requirements of this program may be

modified, adjusted or waived to reduce the obligations to the extent necessary to avoid an unconstitutional result.

- b. If the City Manager, or his/her designee, determines no violation of the United States or California Constitutions would occur through application of this Chapter, the requirements remain applicable.
 2. The City Manager, or his/her designee, shall review any requests for an adjustment or waiver application and issue a written decision.
- C. In making the (adjustment or waiver) determination, the City Manager or City Council, as applicable shall assume each of the following:
 - a. Application of the inclusionary housing requirement to the residential development project;
 - b. Application of any applicable inclusionary or density bonus concessions, incentives or waivers;
 - c. Utilization of the most cost-efficient product type for the inclusionary units; and
 - d. The potential for the external funding, including but not limited to, governmental grants, loans, or subsidies of any nature where reasonably likely to occur.

19.535.120 Appeals of City Manager Decisions on Inclusionary Requirements.

- A. The decision of the City Manager, or his/her designee, may be appealed by submitting, in writing, the basis for the appeal.
- B. The appeal shall be submitted to the City Clerk within ten (10) days of receipt of the decision.
- C. The City Council shall hear the appeal at a time agreed by the appellant and the City.
- D. The decision of City Council's decision shall be final.

19.535.120 Compliance Requirements and Procedures.

- E. Inclusionary Housing Plan.
 1. As part of any application for residential development projects, an Inclusionary Housing Plan shall be required for all residential development projects subject to this Chapter as prescribed by the City.
 2. The Inclusionary Housing Plan shall be approved concurrently with the residential development project application and shall include the following:
 - a. Project specifics.
 - i. Description of the residential development project including the number of for-sale or rental units.
 - ii. Methods to meet the inclusionary housing requirements.
 - iii. The number, unit type, tenure, number of bedrooms, approximate location, size and design, construction and completion schedule of all inclusionary units.
 - iv. Compliance with all outside the boundary requirements for the residential development project.
 - v. If applicable, phasing plans including the relationship of construction timing for inclusionary units and market rate units.
 - vi. If applicable, the in-lieu fees to be paid by applicant.
 - vii. Any other information requested by the City Manager, or his/her designee, that will assist with evaluation of the plan under the requirements of this Chapter.

- b. Recording requirements include:
 - i. A legal instrument, as specified by the City, shall be recorded against every inclusionary unit to ensure its affordability.
 - ii. A recordable Affordable Housing Agreement, as defined in this Chapter, entered into by the applicant and any other necessary party.
- c. All required in-lieu fees shall be paid at the time per 19.535.080.
- 3. Discretionary Decisions.
 - a. If the residential development project requires discretionary approval, the Inclusionary Housing Plan shall be considered with the project application.
 - b. Discretionary decisions related to residential development projects that include inclusionary units may be appealed in accordance with the appeals procedures in this Title.
- 4. Ministerial Approval.

If the residential development project does not require discretionary approvals, the Inclusionary Housing Plan shall be approved by the Community & Economic Development Director, or his/her designee, prior to issuing the ministerial permit.
- F. Affordable Housing Agreement.
 - 1. An approved Affordable Housing Agreement shall be required for residential development projects subject to this Chapter.
 - 2. Form of Agreement.
 - a. The Affordable Housing Agreement, and any related declarations, resale restrictions, deeds of trust, and other documents, shall be in a form as prescribed by the City;
 - b. The Affordable Housing Agreement shall be approved by the City Manager, or his/her designee, and approved as to form by the City Attorney prior to final execution.
 - 3. Recording Requirements.
 - a. The Affordable Housing Agreement must be recorded against every individual inclusionary unit or the residential development project in its entirety.
 - b. Building permits shall not be issued for any residential development project until:
 - i. The Affordable Housing Agreement is executed by the owner, the applicant (if not the owner) and the City;
 - ii. The Agreement is recorded against the property; and
 - iii. The payment of in-lieu fee is paid, if applicable.
 - c. The Affordable Housing Agreement shall specify that the applicant must develop the required inclusionary housing units and comply with all terms of the approved Inclusionary Housing Plan as defined in this Chapter.
 - d. Resale restrictions, deeds of trust, and/or other documents as deemed necessary by the City Manager, or his/her designee, shall be recorded against all for-sale inclusionary units.

19.535.130 Administration.

- A. The City Manager, or his/her designee, is authorized to initiate any administrative procedures necessary to implement the purpose and intent of this Chapter.

- B. The City Manager, or his/her designee, may prepare necessary forms related to the implementation of this Chapter.
 - 1. Forms needed for implementation may be introduced as deemed necessary.
 - 2. All forms or administrative procedures shall be carried out in a manner consistent with the purposes and intent of this Chapter and the City's General Plan.
- C. In-Lieu Fees – Inclusionary Housing Fund
 - 1. Unless otherwise required by law, all in-lieu fees and funds collected pursuant to this Chapter shall be deposited into a separate account designated as the City of Riverside Inclusionary Housing Fund, to be established by resolution of the City Council.
 - 2. The moneys in the Inclusionary Housing Fund, and all earnings from investment of the moneys, shall be expended exclusively to provide housing affordable to extremely low-income, very low-income, low-income, and moderate-income households in the City of Riverside inclusive of administration and compliance monitoring.

19.535.140 Enforcement.

- A. The City Attorney shall be authorized to enforce the provisions of this Chapter and all requirements placed on inclusionary units by civil action and any other proceeding or method permitted by law.
- B. The City may, at its discretion, take such enforcement action as is authorized by the Riverside Municipal Code and/or any other action authorized by law or any regulatory document, restriction, or agreement executed under this Chapter.
- C. Failure of any official or agency to fulfill the requirements of this Chapter shall not excuse any applicant or owner from the requirements.
- D. No permit, license, map, or other approval or discretionary approval for a residential development project shall be issued, including without limitation a final inspection or certificate of occupancy, until all applicable requirements are satisfied.
- E. Any remedies provided shall be cumulative and not exclusive and shall not preclude the City from any other remedy or relief to which it otherwise would be entitled under law or equity.

Chapter 19.545 DENSITY BONUS

19.545.010 Purpose.

- A. The purpose of this Chapter is to:
 - 1. Establish procedures for implementing State Density Bonus requirements, as set forth in California Government Code Sections 65915 through 65918 and
 - 2. Facilitate the development of affordable housing consistent with the goals, objectives, and policies of the Housing Element of the City's General Plan.
- B. This Chapter establishes incentives available to developers to produce housing affordable to very-low, low and moderate-income households, transitional foster youth, disabled veterans, homeless persons, lower-income students, and senior citizens, consistent with State Density Bonus law.

19.545.020 Applicability.

- A. The provisions of this Chapter shall apply to any residential development project, as defined in Article X – Definitions.
- B. A residential development project that complies with the provisions of Chapter 19.535 (Inclusionary Housing), or any other applicable statute, regulation or law that requires development of affordable housing shall be eligible to receive incentives as set forth in this Chapter.
- C. Any request for a density bonus for a residential development project located within a Compatibility Zone of the Riverside County Airport Land Use Compatibility Plan shall comply with the applicable compatibility criteria of the Compatibility Zone in which is it located.

19.545.030 General requirements.

- A. *Maximum allowable density.*
 - 1. The maximum number of units allowed by the applicable zone for the site shall be multiplied by the density bonus allowance as defined in this Chapter.
 - 2. A residential development project shall not exceed the cumulative total number of units allowed by the underlying zone and the density bonus units.
- B. *Fractional units.* Each component of any density calculation resulting in fractional units, including base density and bonus density, shall be separately rounded up to the next whole number.
- C. *Discretionary approval.*
 - 1. A request for a density bonus may be incorporated with a regular application to the Planning Division for ministerial or discretionary development approval required by this Title for the proposed residential development project.
 - 2. The granting of a density bonus, in and of itself, shall not require a General Plan Amendment, Zoning Change, or other discretionary approval.
- D. *Mixed category development.*

1. If a residential development project qualifies for a density bonus under more than one category, the applicant shall select the category under which the density bonus is granted.
 2. Unless otherwise stated in this Chapter, density bonuses from more than one category may not be combined.
- E. Any project for which a density bonus is granted under this Chapter is not eligible for an additional density bonus under Chapter 19.780 (Planned Residential Development Permit).

19.545.040 Residential Development Project - Eligibility.

- A. *Eligible.* The City shall grant a density bonus when a residential development project meets at least one of the following criteria:
1. 5% of the total units are designated for very low-income households.
 2. 10% of the total units are designated for low-income households.
 3. 100% of the units, exclusive of a manager's unit, are designated for very low-, low-, and moderate-income households, with no more than 20% of the total units designated for moderate-income households.
 4. 10% of the total units are designated for transitional foster youth, disabled veterans, or homeless persons with rents provided at the same affordability level as very low-income units.
 5. 20% of the total units are designated for lower income students in housing dedicated for full-time students at accredited colleges.
 6. Any senior citizen residential development project as defined in Civil Code Sections 51.3 and 51.12 that has at least 35 dwelling units 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.
 7. Any for-sale project with 10% of the total units designated for moderate-income households, provided that all units in the development are offered to the public for purchase.
 8. A condominium conversion project where:
 - a. 33% of the units converted are for low- or moderate-income households; or
 - b. 15% of the units converted are for very low- or extremely low-income households.
 9. The applicant donates at least one acre of land to the City for very low-income units, and the land has the appropriate General Plan designation, Zoning, permits and approvals, and access to public facilities needed for such housing.
- B. *Ineligible.* Unless units are replaced in conformance with 19.545.040.C below, an applicant is ineligible for a density bonus or any other incentives, concessions, or waivers under this Chapter if the proposed residential development project involves the removal of rental units that:
1. Are currently subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of low or very low-income; or
 2. Were:

- a. Vacated or demolished In the five-year period preceding the application; and
 - b. Subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of low or very low income; or
 3. Are currently subject to any form of rent or price control; or
 4. Are currently occupied by low- or very low-income households; or
 5. For conversion to condominiums, were previously granted a density bonus, concession, or incentive.
- C. *Replacement units.* A proposed residential development project that involves the removal of affordable units as set forth in 19.545.040.B above may request a density bonus, concession, incentive, or waiver if the affordable units are replaced subject to the following:
1. *Occupied units.* For dwelling units that are occupied on the date of application:
 - a. The proposed residential development project shall provide at least the same number of units containing the same number of bedrooms; and
 - b. The units must be made available at affordable rent or affordable sales price to, and occupied by, persons and households in the same or lower income category as current household in occupancy.
 2. *Vacant or demolished units.* For dwelling units that have been vacated or demolished within the five-year period preceding the application:
 - a. The proposed residential development project shall provide at least the same number of units containing the same number of bedrooms as existed at the highpoint of those units in the five-year period preceding the application; and
 - b. The units must be made available at affordable rent or affordable sales price to, and occupied by, persons and families in the same or lower income category as the last household in occupancy.
 3. *Unknown household income.* If the income category of the last household in occupancy is not known, the units shall be replaced in the same proportion of lower-income renter households to all renter households within the City, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database.
 4. Residential development projects that would result in the removal of affordable units pursuant to this section shall also comply with replacement requirements set forth in California Government Code §66300(d)(2) (also known as SB 330 The Housing Crisis Act) as long as that statute remains in effect.

19.545.050 Permitted Density Bonus.

A residential development project that complies with the eligibility requirements of Section 19.545.040 shall be granted a density bonus as follows:

- A. *Bonus for very low-, low-, and moderate-income housing.*

1. The amount of density bonus granted shall be based on the following table, up to a maximum of 50%:

Unit Type	Minimum % of Units	Density Bonus Granted	Additional Bonus for each 1% Increase in Units
Very Low Income	5%	20%	2.5% bonus through 12% of units 3.75% from 11% - 15% of units
Low Income	10%	20%	1.5% bonus through 21% of units 3.75% from 20% - 24% of units
Moderate Income for-sale units only	10%	5%	1% bonus through 40% of units 3.75% from 41% - 44% of units

2. The applicant may propose a lesser percentage of density increase, including, but not limited to, no increase in density with no effect on eligibility for concessions, incentives, and waivers or reduction of development standards to be considered as part of the development application.
- B. Bonus for 100% affordable residential development projects.
1. If no more than 20% of the units are designated for moderate-income households and the remaining 80% are designated for very low- and low-income households, exclusive of manager's unit(s), the project shall be eligible for an 80% density bonus.
 2. A residential development project located within one-half mile of a major transit stop shall have no maximum density.
- C. *Bonus for other housing categories.* A residential development project that complies with the eligibility requirements of Section 19.545.040 shall be entitled to density bonus as follows:
1. Units for transitional foster youth, disabled veterans, homeless persons, or seniors: 20% density bonus
 2. Units for lower-income students: 35% density bonus.
 - a. Units for lower-income students shall be defined as one (1) rental bed and its pro rata share of associated common area facilities.
 - b. Units for lower-income students shall meet all of the following requirements:
 - i. All units will be used exclusively for full-time undergraduate, graduate, or professional students at an institution accredited by the Western Association of Schools and Colleges or the Accrediting Commission for Community and Junior Colleges.
 - ii. As a condition of receiving a certificate of occupancy, the developer/applicant shall enter into an operating agreement or master lease with one or more institutions of higher education for students from that institution(s) to occupy all units of the student residential development project.

- iii. The development shall provide priority for the applicable affordable units for lower-income students experiencing homelessness that may be verified by an institution of higher education that has knowledge of a person's homeless status or a homeless service provider, as defined in paragraph (3) of subdivision (e) of Section 103577 of the Health and Safety Code.
 - iv. Rent for the affordable units for lower income students shall be calculated at thirty percent (30%) of sixty-five percent (65%) of the area median income for a single-room occupancy unit type.
 - 3. 25% density bonus for condominium conversion, subject to the requirements of California Government Code Section 65915.5.
- D. *Bonus for donating land for very low-income units.*
- 1. An applicant is eligible for a density bonus if all of the following conditions are met:
 - a. The donated land is:
 - i. At least one acre in size or of sufficient size to permit development of at least 40 units, which is greater.
 - ii. Has the appropriate general plan designation.
 - iii. Zoned with development standards for development of at least 30 dwellings per acre.
 - iv. Is or will be served by adequate public facilities and infrastructure.
 - v. Located within the boundary of the proposed development.
 - vi. Subject to the approval of the City, within one-fourth mile of the boundary of the proposed development.
 - vii. The donated land shall be fully entitled for the development of very low-income housing.
 - viii. The applicant shall donate and transfer the land to the City or to a housing developer approved by the City no later than the date of approval of the final subdivision map, parcel map, or residential development application.
 - ix. 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.
 - 2. An applicant for a residential development project that donates land to the City in compliance with the eligibility requirements of Section 19.545.040 shall be entitled to:
 - a. 15% density bonus if 10% of the total units in the development are set aside for very low-income households.
 - b. For each one percent increase in the percentage of units affordable to very low-income households, the density bonus shall be increased by one percent, up to a maximum of 35% density bonus.

- c. Density bonus for land donation can be combined with the regular density bonus provided for the development of affordable units, up to a maximum 35% density bonus.

E. *Bonus for childcare facilities.*

1. When an applicant proposes to construct a residential development project that includes a childcare facility that will be located on the premises of, as part of, or adjacent to the project, the City shall grant either of the following:
 - a. An additional density bonus that is an amount of square feet of residential space that is equal to the amount of square feet in the childcare facility; or
 - b. An additional concession or incentive that contributes significantly to the economic feasibility of the construction of the childcare facility.
2. The City shall require as a condition of approving the childcare facility that the following occur:
 - a. The childcare 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; and
 - b. Of the children who attend the childcare facility, 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-income households, lower-income households, or families of moderate income.

19.545.060 Concessions and incentives.

- A. *General.* The applicant for a density bonus project may request specific concessions or incentives and the City shall grant the request unless the City makes a written finding, based on substantial evidence, of one or more of following:
 1. The concession or incentive does not result in identifiable and actual cost reductions to provide for affordable housing costs or for rents for the targeted units to be set as specified in 19.545.040.
 2. The concession or incentive would have a specific, adverse impact upon public health and safety 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.
 3. The concession or incentive would be contrary to State or Federal law.
- B. *Number of concessions or incentives.* The applicant shall receive the following number of concessions or incentives:

Percentage of Affordable Units (Minimum)	Number of Concessions
5% Very Low 10% Low 10% Moderate (for-sale units only) 20% Lower Income Student	1
10% Very Low 17% Low 20% Moderate (for-sale units only)	2
15% Very Low 24% Low 30% Moderate (for-sale units only)	3
100% Very Low or Low (maximum 20% Moderate)*	4
* If the project is within one-half mile of a major transit stop, the applicant shall also be eligible to receive a height increase of up to three (3) additional stories, or thirty-three (33) feet.	

C. *Types of concessions or incentives.* Concession or incentive means any of the following:

1. A reduction in site development standards or a modification of Zoning Code requirements or architectural design requirements that results in identifiable and actual cost reductions including, but not limited to:
 - a. Height limitation;
 - b. Setback requirement; or
 - c. Parking ratio.
2. Approval of mixed-use zoning in conjunction with the residential development project if commercial, office, industrial, or other land uses will reduce the cost of the residential development project, provided that such uses are compatible with:
 - a. The proposed residential development project; and
 - b. The existing or planned development in the area where the proposed residential development project will be located.
3. Other regulatory incentives or concessions proposed by the applicant or the City that result in identifiable and actual cost reductions.

D. *Parking incentives.*

1. A request for reduced parking pursuant to this section shall not count as concession or incentive.
2. The applicant may request further parking reductions as a concession or incentive.
3. Notwithstanding the requirements below, the applicant may provide additional parking in excess of the minimum required parking identified in this section.

4. *Parking ratios.* Upon the request of the applicant of a residential development project that satisfies the requirements of 19.545.040, the following onsite parking ratios shall apply:
 - a. Zero to one bedroom: one parking space per unit;
 - b. Two to three bedrooms: one and one-half parking spaces per unit; and
 - c. Four or more bedrooms: two and one-half parking spaces per unit.
5. *Within ½ mile of a major transit stop.* If a development is within one half-mile of a major transit stop and the residents of the development have unobstructed access to the major transit stop from the development, then upon request of the applicant, parking ratios shall be further reduced as follows:
 - a. Development includes at least 11% very low-income units or at least 20% low-income units: 0.5 spaces per unit.
 - b. Development includes at least 40% moderate-income for-sale units: 0.5 spaces per bedroom.
6. *No required parking.* If a development is 100% affordable, then upon the request of the applicant, the City shall not impose a vehicular parking ratio if the development meets any of the following criteria:
 - a. The development is within one-half mile of a major transit stop and the residents of the development have unobstructed access to the major transit stop from the development; or
 - b. The development is for individuals who are 62 years of age or older and the development has either paratransit service or unobstructed access within one-half mile to fixed bus route service that operates at least eight times per day; or
 - c. The development is either special needs housing or supportive housing and the development has either paratransit service or unobstructed access within one-half mile to fixed bus route service that operates at least eight times per day.
7. 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.
8. A residential development project may provide onsite parking through tandem parking or uncovered parking, but not through on-street parking.
9. Notwithstanding the above, the City may impose higher minimum parking requirements pursuant to California Government Code §65915(p)(8).

19.545.070 Waiver or reduction of development standards.

If a development standard would physically preclude the construction of a residential development project at the density and with the concessions or incentives permitted in this Chapter, the applicant may propose to have those standards waived or reduced.

- A. When an applicant makes a request for a waiver or reduction of development standards, the City shall grant the request unless any of the following findings are made:

1. The waiver or reduction of development standards would have a specific adverse impact upon public health or safety for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact.
 2. The waiver or reduction of development standards would have an adverse impact on any real property listed in the California Register of Historical Resources.
 3. The waiver or reduction of development standards would be contrary to State or Federal law.
- B. A proposal for the waiver or reduction of development standards pursuant to this section shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled.

19.545.080 Development standards for affordable units.

The units made available to lower-income households, very low-income households and moderate-income households pursuant to this Chapter shall be designed and constructed pursuant to the requirements of Chapter 19.535.050 (Inclusionary Housing – Development Standards).

19.545.090 Affordable Housing Agreement.

- A. Residential development projects receiving a density bonus, concession, incentive, or waiver pursuant to this Chapter shall enter into an Affordable Housing Agreement with the City.
- B. The terms of the Affordable Housing Agreement shall be subject to the requirements established by the City of Riverside Housing Authority at the time of project approval.
- C. The Affordable Housing Agreement shall be entered into prior to issuance of the final certificate of occupancy for the residential development project.
- D. The Affordable Housing Agreement shall remain in effect for the entire term of affordability of the affordable units created pursuant to this Chapter, or as required by applicable State law, whichever is greater.

Chapter 19.450 ALCOHOL SALES

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19.450.020 Applicability and permit requirements.

Alcohol sales, as defined in Article X (Definitions), are permitted as set forth in Article V, Base Zones and Related Use and Development Provisions subject to the requirements contained in this chapter.

A. Off-sale.

Any establishment, business or facility that proposes to engage in the off-sale of alcoholic beverages shall obtain a conditional use permit pursuant to Chapter 19.760 (Conditional Use Permit), except for the following uses:

1. Establishments that do not propose to sell alcohol as their principal business and that contain 15,000 square feet or more of gross floor area.
2. Florist shops that propose the incidental sale of wine along with gift or floral baskets; such uses shall obtain a minor conditional use permit processed pursuant to Chapter 19.730 (Minor Conditional Use Permit).

B. On-sale.

1. Any establishment, business or facility that proposes to engage in the on-sale of alcoholic beverages, ~~unless exempted by subsection 1, below~~ shall obtain a minor conditional use permit pursuant to Article IX, Land Use and Development Permit Requirements/Procedures.

12. Exemption.

a. Businesses meeting the conditions listed in this Section shall be exempt from the site location, operation and development standards set forth in 19.450.030.C.

b. The Community & Economic Development Director or his/her designee shall exempt a business providing on-sale of alcoholic beverages from the minor conditional use permit requirement if all of the following conditions apply:

ai. The premises contains a kitchen or food-servicing area in which a variety of food is prepared and cooked.

bii. The primary use of the premises is for sit-down food service to patrons.

ciii. The premises serves food to patrons during all hours the establishment is open for customers.

dii. If there is a separate area primarily intended for the consumption of alcoholic beverages, it does not constitute more than 30 percent of the public access floor area or 1,000 square feet, whichever is less.

ey. No alcoholic beverages, including beer or wine are sold or dispensed for consumption beyond the premises.

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fvi. The premises is defined as a "bona fide public eating place" by the State of California Department of Alcoholic Beverage Control.

~~g. The business is not located within 100 feet of any existing residential dwelling or property zoned for residential use, as measured from any point upon the outside walls of the building or building lease space containing the business to the nearest property line of the residential property. This provision shall not apply to residential uses that are a part of a mixed-use zone or mixed-use project.~~

Chapter 19.580 PARKING AND LOADING

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19.580.60 Parking requirements.

A. Minimum parking requirements.

1. The number of off-street parking spaces required by Table 19.580.060 (Required Spaces) shall be considered the minimum necessary for each use, unless off-street parking reductions are permitted pursuant to provisions herein.
2. In conjunction with a conditional use, site plan review or planned residential development permit, the designated approving or appeal authority may increase these parking requirements if it is determined that they are inadequate for a specific project.

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D. Required spaces. Table 19.580.060 (Required Spaces) below sets forth minimum off-street parking requirements for number of spaces. Except as otherwise specifically stated, the following rules apply to this table.

1. "Square feet" (sq. ft.) means "gross square feet" and refers to total building gross floor area unless otherwise specified, not including areas used for off-street parking or loading spaces.
2. Where parking spaces are required based on a per-employee ratio, this shall mean the total number of employees on the largest working shift.
3. Where the number of seats is listed to determine required parking, seats shall be construed to be fixed seats. Where fixed seats provided are either benches or bleachers, each 24 linear inches of the bench or bleacher shall be considered a seat.
4. When the calculation of the required number of off-street parking spaces results in a fraction of a space, the total number of spaces shall be rounded to the nearest whole number.
5. In addition to the requirements in Table 19.580.060 (Required Spaces), spaces shall be provided for trucks and other vehicles used in the business, of a number and size adequate to accommodate the maximum number of types of trucks and/or vehicles to be parked on the site at any one time.
6. Where maximum distance is specified from the lot, the distance shall be the walking distance measured from the nearest point of the parking facility to the nearest point of the building or area that such facility is required to serve.
7. Unless otherwise stated, the required parking shall be located on the same lot or within the same complex as the use.
8. Unless specifically listed in Table 19.580.060 (Required Spaces) below or required by other provisions of this Title, no additional parking spaces shall be required for a use listed as an incidental type of use in Table 19.150.020 A. (Permitted Uses Table) or in Table 19.150.020 B. (Incidental Uses Table).

Table 19.580.060 - Required Spaces

Use	Number of Spaces Required
A	
Adult-Oriented Businesses	(5)
Agriculture, Horticulture and Growing of Nursery Plants	1 space/two employees
Aircraft Charter Services	See "Offices – Business & Professional"
Aircraft Parts, Supplies, Merchandise and Equipment Shops	See "Vehicle Sales, Rental & Leasing"
Aircraft Sales, Rental, Service, Repair and Storage	See "Vehicle Sales, Rental & Leasing"
Airports (Public or Private)	(5)
Ambulance Company	1 space/ambulance plus 1 space/250 square feet of office area
Animal Keeping: a. Kennel (Dogs and Cats) b. Horse Stable - Commercial	a. 1 space/250 square feet of floor area b. 1 space/employee plus 1 space/5 stalls
Arcades and Internet Cyber Cafes	1 space/250 square feet of floor area (43) (10)
Artist Studio	See "Offices – Business & Professional"
Assemblies of People - Entertainment and Non-Entertainment (45) (12) (Includes places of worship, fraternal service organizations, indoor theater, stadiums, auditoriums, auction houses, community centers, clubs or meeting halls)	1 space/4 fixed seats or 1 space/30 square feet of floor area in the main assembly area for non-fixed seats. (43) (10) Additional requirements applicable to incidental Dwelling Unit(s) (47) (14)
Assisted Living (Residential Care Facilities)	0.5 spaces/bed
Astrology and Fortune-telling (Occultist)	See "Offices – Business & Professional"
Auction House (Indoor)	See "Assemblies of People"
B	
Bail Bonds Office	See "Offices – Business & Professional"
Bakery - Retail	See "Retail Sales"
Banks & Financial Institutions/Services, including Brokerages a. Automated teller situated as part of a bank or financial institution, located indoor or outdoor b. Automated teller separate from a bank or financial institution, located outdoor c. Drive through automated teller or indoor automated teller associated with a retail use.	1 space/180 square feet (43) (10) a. No spaces required. b. 2 spaces for the first teller station and 1 space per each additional teller station, all located on the same lot or within 100 feet of the teller station. ⁽¹¹⁾ c. No spaces required.
Bars, Saloons, Cocktail, Lounges and Taverns	1 space/100 square feet of floor area ⁽¹²⁾
Bed and Breakfast Inn	1 space/guest room (46) (13)
Boardinghouse	1 space/guest room ⁽¹²⁾
Boarding of Cats and Dogs/Kennels	See "Animal Keeping"

Use	Number of Spaces Required
Brewery/Winery/Distillery a. Manufacturing/Wholesale only b. Off-sale Retail & On-Site Tasting c. Brewpub	a. See "Manufacturing" b. See "Retail Sales" c. See "Restaurant"
Building Materials Supply - Wholesale	See "Warehousing & Wholesale"
Bus Terminal	(5)
Business Support Services (Including graphic reproduction, computer services, etc.)	1 space/250 square feet of floor area (+3) (10)
C	
Caretaker Living Quarters	1 space/dwelling unit
Catering Establishment	1 space/employee plus 1 space/500 square feet of floor area (+3) (10)
Cemeteries, Mortuaries, Funeral Chapels and ancillary uses a. With indoor facilities b. Outdoor only	a. See "Assemblies of People" b. (5)
Check Cashing	See "Banks & Financial Institutions/Services"
Commercial Kitchen (no on-site dining)	See "Manufacturing"
Commercial Storage Facilities (mini-warehouse, self-storage facilities)	1 space/250 square feet of office area plus 1 space for a resident manager or caretaker ⁽¹⁰⁾
D	
Day Care Centers not including family day care homes	1 space/employee plus 1 space/facility vehicle plus 1 space/10 persons at facility capacity. ⁽¹⁰⁾
Drug Store/Pharmacy	1 space/250 square feet of floor area (+3) (10)
Dwelling: a. Single-family dwelling b. Multiple-family dwelling c. Live/Work, Studio Unit/Tiny Home (Foundation) d. Accessory Dwelling Unit and Junior Accessory Dwelling Unit	a. 2 spaces within a private garage/dwelling unit b. 1.5 spaces/dwelling unit with 1 bedroom plus 2 spaces/dwelling unit with 2 or more bedrooms ⁽¹⁾ c. 1 space/dwelling unit d. No replacement parking is required when a garage, carport or covered parking is demolished. No parking is required for the ADU or JADU.
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F	
Farmers Market - Certified	(5)
Florist Shops	See "Retail Sales"
Flying Schools	See "Schools – Vocational & Technical"
Furniture Upholstery	1 space/500 square feet of floor area (+3) (10)
	:
	:
M	
Manufactured Dwellings a. Single-family dwelling b. Sales	a. See "Dwelling" b. See "Vehicle Sales, Rental & Leasing"
Manufacturing ⁽³⁾	1 space/500 square feet of floor area (+3) (10)

Use	Number of Spaces Required
Medical Services: a. Hospital b. Medical/Dental Office c. Laboratory, Research/Development d. Emergency Medical Service - urgent care e. Optometrist office	a. 1 space/bed ⁽¹²⁾ b. 1 space/180 square feet of floor area (43) (10) c. 1 space/250 square feet of floor area d. 1 space/180 square feet of floor area e. 1 space/250 sq. ft. of floor area (minimum of 5 spaces) (43) (10)
Mobile Home Park	1 space/mobile home site plus 1 off-street guest space/5 mobile home sites
Model Homes	2 spaces/model home
Multiple-family Dwelling	See "Dwelling"
O	
Offices - Business and Professional	1 space/250 square feet of gross floor area (43) (10)
Outdoor sales , display or storage	5 spaces plus 1 space/250 square feet of office area
Outdoor Storage Yard	The greater of: 1 space/4,000 square feet net lot area or 1 space/250 square feet of office space or 1 space/500 square feet of enclosed storage
P	
Parking Lot or Parking Structure	1 space/employee if manned ingress/egress
Parolee/Probationer Home: a. 6 or fewer residents b. more than 6 residents	a. See "Dwelling" b. ⁽⁵⁾
Pawn Shop/Gold Buying	See "Retail Sales"
Personal Service ⁽⁷⁾	1 space/250 square feet of floor area (43) (10)
Planned Residential Development	⁽⁵⁾
Plant Nurseries ⁽⁶⁾	5 spaces plus 1 space/250 square feet of building area
Publishing & Printing	See "Manufacturing"
R	
Rail Transit Station	⁽⁵⁾
Recreational Facilities - Commercial: a. Billiard Parlor and Pool Halls b. Bowling Alleys c. Skate Facility (indoor/outdoor) d. Amusement Parks e. Golf Courses and Driving Ranges f. Health/Fitness Club (45) (12) g. Swimming Pool h. Specialty Non-Degree (Dance, Music, Martial Arts or similar) i. Other indoor and outdoor facilities	a. 1 space/250 square feet b. 5 spaces/bowling lane ⁽¹²⁾ c. 1 space/100 square feet of floor area d. ⁽⁵⁾ e. 5 spaces/hole, 1.5 spaces/tee on the driving range plus additional spaces required for ancillary uses per the provisions of the Zoning Code. f. 1 space/150 square feet of floor area g. ⁽⁵⁾ h. 1 space/250 square feet, or ⁽⁵⁾ i. ⁽⁵⁾
Recycling Centers: a. Paper, glass plastic, aluminum and nonferrous metals b. Solid Waste Transfer Stations and Material Recovery Facilities	a. 1 space/employee plus 1 space/1,000 square feet of floor area b. 1 space/employee

Use	Number of Spaces Required
Recycling Facilities: a. Indoor Collection Center b. Reverse Vending Machine c. Bulk Reverse Vending Machine d. Mobile Recycling Unit	a. 5 spaces, plus 1 space per employee b. No additional parking is required c. ⁽⁵⁾ d. 1 space/attendant (if applicable)
Repair Shop – Small Items	See “Retail Sales”
Restaurant (sit-down, drive-through, fast food, take-out, café, cafeteria, excluding any outdoor dining area)	1 space/100 square feet of floor area ⁽¹²⁾
Retail Sales (uses not located in a regional shopping center - i.e., In the CRC Zone) ⁽⁸⁾	1 space/250 square feet of floor area (+3) (10)
S	
Schools: a. College, Community College, University, and Professional b. Elementary or Secondary (Junior High) c. High School d. Vocational and Technical	a. ⁽⁵⁾ b. 2 space/classroom plus 2 bus loading spaces c. 7 spaces/classroom plus 3 bus loading spaces d. 0.75 spaces/employee plus 0.75 spaces/student at maximum enrollment ⁽⁹⁾ (+3) (10)
Senior Housing	1 space/unit ⁽²⁾
Shelters, Emergency	Sufficient parking to accommodate all staff working in the emergency shelter, provided that the standards do not require more parking than that for other residential or commercial uses within same zone.
Shopping Center - Regional (i.e., in the CRC Zone)	1 space/200 square feet of gross leasable floor area
Showroom	1 space/500 square feet of floor area
Single-family Dwelling	See “Dwelling”
Single Room Occupancy (SRO)	1 space/dwelling unit
Smog Shop	See “Vehicle Repair Facilities”
Sober Living Homes	See “Dwelling”
Student Housing (including dormitories, fraternities, sororities, etc.)	<u>1.1 spaces/bed; or</u> <u>0.5 space/bed within 1/4 mile of a major transit stop</u> <u>⁽¹⁶⁾ or campus ⁽¹⁰⁾ ⁽¹⁷⁾</u>
Supportive Housing	See “Dwelling”
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V	
Vehicle Fuel Station: a. With Accessory Retail/Convenience Market b. With Vehicle Maintenance/Repair c. With Indoor Storage Area d. With Restaurants (including all cooking, serving and seating areas) e. With Car Wash	a. 1 space/250 square feet of retail area including cooler areas (+4) (11) b. 2 spaces/service bay (+4) (11) c. 1 space/1,000 square feet of storage area (+4) (11) d. 1 space/100 square feet of floor area (+4) (11) e. 1 space/washing bay, not including vacuum stalls (+4) (11)
Vehicle Impound & Tow	⁽⁵⁾
Vehicle Parts and Accessories a. Sales Only b. Sales and Installation (Indoor Only)	a. See "Retail Sales" b. See “Vehicle Repair Facilities”

Use	Number of Spaces Required
Vehicle Repair Facilities - Major or Minor	6 spaces on same lot plus 2 additional spaces/service bay, in addition to the service bays ⁽¹¹⁾
Vehicle Sales, Rental, Leasing - New or Used a. Without Outdoor Display b. With Outdoor Display	a. See "Retail Sales" b. 5 spaces plus 1 space/250 square feet of office area
Vehicle Wash Facilities: a. Full Service and Express b. Self Service - (No separate office or retail use)	a. 1 space/2 employees of largest shift, not including vacuum stalls (adequate stacking and drying areas as determined by Conditional Use Permit) b. 1 space/2 washing bays or stalls in addition to the bays, not including vacuum stalls
Vehicle Wholesale Business a. Indoor (less than 5,000 sq. ft.) b. Outdoor & Indoor (over 5,000 sq. ft.)	a. See "Offices" b. ⁽⁵⁾
Veterinary Services (clinic and hospital, may include accessory grooming and boarding)	1 space/180 square feet of floor area

Table 19.580.060 Notes:

1. See Section 19.580.070 B (Multiple Family Dwellings) for additional requirements. For the purpose of calculating parking requirements for multiple family dwellings, dens, studies, or other similar rooms that may be used as bedrooms shall be considered bedrooms.
2. For senior housing projects, 50 percent of the required spaces shall be covered either in a garage or carport.
3. For the purposes of parking requirements, this category includes corporation yards, machine shops, tin shops, welding shops, manufacturing, processing, packaging, treatment, fabrication, woodworking shops, cabinet shops, and carpenter shops and uses with similar circulation and parking characteristics.
4. Required parking spaces may be in tandem, and the driveway may be used for the required drop-off and pick-up space.
5. Parking ratio to be determined by the designated Approving or Appeal Authority in conjunction with required land use or development permits, based on the impacts of the particular proposal and similar uses in this table.
6. Excluding lath and green houses.
7. Includes barber shops, beauty salons/spas, massage, tanning, tailors, dry cleaning, self-service laundry, travel agencies, electrolysis, acupuncture/acupressure, and tattoo parlors.
8. For the purposes of parking requirements, this category includes antique shops, gun shops, pawn shops, pet stores, and second-hand stores.
9. Additional parking for assembly rooms or stadiums is not required.
- ~~10. Parking may be provided on the same or adjoining lot.~~
- ~~11. Parking may be provided on the same lot or within 100 feet of the subject site.~~
- ~~12. Parking may be provided on the same lot or within 150 feet of the subject site.~~
- ~~130. -~~Parking may be provided on the same lot or within 300 feet of the subject site.
- ~~141.~~ The pump islands are not counted as parking stalls.
- ~~152.~~ A reduction in the number of required parking spaces may be permitted subject to a parking study and a shared parking arrangement.
- ~~163.~~ Where strict adherence to any parking standards would significantly compromise the historic integrity of a property, the Community & Economic Development Director, or his/her designee, may consider variances that would help mitigate such negative impacts, including consideration of tandem parking, allowances for on-street parking, alternatives to planter curbing, wheel stops, painted striping, and asphalt or concrete surfacing materials.
- ~~174.~~ Parking shall be provided in accordance with Chapter 19.545.060 (Parking Standards Incentive). A parking analysis may be provided to justify modifications from those standards. The parking analysis shall identify the parking needs to address the operating hours and characteristics of the operations to provide for adequate parking at all times.
- ~~185.~~ Refer to Section 19.580.060 E for new uses within a designated cultural resource as defined in Chapter 20 of the Riverside Municipal Code.
- ~~16. As defined in Article X – Definitions).~~
- ~~17. Campus shall have the same meaning as "School, professional institution of higher education" as defined in Article {X} – Definitions.~~

19.580.080 Design standards.

A. *Parking space dimensions.*

1. Table 19.580.080 A. (Off Street Vehicle Parking Space Dimensions) sets forth minimum size requirements for individual parking spaces. Design standards for handicapped parking stalls shall be provided in compliance with current requirements of the Uniform Building Code.
2. Up to 15 percent of the ~~required~~ on-site parking spaces may have compact dimensions as set forth in Table 19.580.080 A. Calculations that result in fraction of a space shall be rounded to the nearest whole number.
3. Parking spaces that are parallel and adjacent to a building, fence/wall, or other door swing or pedestrian access obstruction shall be nine and one-half feet wide.
4. All off-street parking spaces shall be indicated by white or yellow painted stripes not less than four inches wide or by other means acceptable to the Planning Division. Handicapped accessible spaces shall be indicated by blue painted stripes, signs and markings, in accordance with State of California requirements.
5. Except in the case of individual tree well planters, the minimum paved depth of a parking space shall not be reduced by an overhang into a planter.
6. Tandem parking shall not be permitted to satisfy the minimum parking requirement, except as provided in Section 19.580.070 B.1.e (Multiple Family Dwellings).
7. Angled Parking Spaces. Any parking layout incorporating angled parking spaces shall illustrate that minimum space dimensions are met by overlaying a rectangle (having the minimum required dimensions - Standard or Compact) onto each angled space so that no overhang occurs on the adjoining spaces, planters or drive aisles.

Table 19.580.080 A. Off-Street Vehicle Parking Space Dimensions

Type of Parking Space	Size of Parking Space (minimum)	
	Width	Length
Standard	9 ft.	18 ft.
Compact (where permitted)	8 ft.	16 ft.

Chapter 19.850 FAIR HOUSING AND REASONABLE ACCOMMODATION

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19.850.030 Procedure.

- A. *Application.* Application shall be made and processed pursuant ~~to the provisions listed for variances in Chapter 19.720~~660 (General Application Processing Procedures). In addition, the applicant shall provide:
1. A description of how the property will be used by the dwelling occupant;
 2. The basis for the claim that the individual is considered protected by the Fair Housing Laws (applicant should submit a letter from a medical doctor, handicapped license, or other similar supportive evidence);
 3. The reason the accommodation is necessary to make the specific housing available to the dwelling occupant; and
 4. A filing fee, in the amount established by City Council resolution, shall be paid at the time of filing an application under this ~~chapter~~Chapter.
- B. *Notice.* Notice of the ~~consideration of a proposed variance~~application shall be pursuant to Section 19.670.020 (Notice Requirements for Administrative Discretionary Permits with No Public Hearing).
- C. *Notice of decision.* Within 45 days after acceptance of a complete application by the Planning Division for administrative review by the Development Review Committee or, if referred to the Planning Commission, within ten days after the Planning Commission's decision, the Planning Division shall provide the applicant with written notification of the decision regarding the request, including any reasonable conditions.
- D. *Appeals.* Any person aggrieved or affected by a decision of the Planning Commission or Development Review Committee in granting or denying a request for reasonable accommodations may appeal the decision to the City Council pursuant to the procedures contained in Chapter 19.680 (Appeals).

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19.850.050 Additional findings required.

~~In addition to findings required for a variance pursuant to Chapter 19.720 (Variance), t~~e The following additional findings shall be made in order to approve an application under this chapter:

- A. The persons who will use the subject property are protected under the Fair Housing Laws;
- B. The requested exception to the zoning law is necessary to make specific housing available to a dwelling occupant;
- C. The requested exception will not impose an ~~undue~~undue financial or administrative burden on the City; and
- D. The requested exception will be in compliance with all applicable Building and Fire Codes and will not require a fundamental alteration of the zoning laws and procedures.

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Chapter 19.910 DEFINITIONS

19.910.020 - "A" Definitions.

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Affordable housing means housing for which the allowable housing expenses paid by a qualifying household shall not exceed a specified fraction of the county median income, adjusted for household size. This shall include housing designated for extremely low-, very low-, low-, and moderate-income households.

Affordable housing agreement means a legally binding agreement between an applicant and the City, in a form and substance satisfactory to the City Manager and City Attorney and suitable for recording, setting forth those provisions necessary to ensure that the requirements of this article are, and will continue to be, satisfied.

Affordable housing cost means, for a for-sale residential unit, no more than thirty percent (30%) of annual income for very low- and low-income households, and no more than thirty-five percent (35%) of annual income for moderate-income households. For purposes of determining affordable housing cost, an estimate of the following annual housing costs shall be included: i) principal and interest payments on the mortgage loan; ii) mortgage loan insurance fees; iii) property taxes and assessments; iv) fire and casualty insurance; and v) homeowner association fees.

Affordable rent means the affordable rent for rental dwelling units as defined in California Health and Safety Code Section 50053.

Affordable sales price means the maximum sales price for which a for-sale inclusionary unit may be sold, that results in the purchaser paying an affordable housing cost for the for-sale inclusionary unit.

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Area median income means the annual median household for Riverside County, adjusted for household size, as published periodically in the California Code of Regulations, Title 25, Section 6932, or its successor provision.

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19.910.050 - "D" Definitions.

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Density, high means, for the purposes of determining inclusionary housing requirements, the density of a project with dwelling units built at a density greater than **14.5 units per gross acre**.

Density, low means, for the purposes of determining inclusionary housing requirements, the density of a project with dwelling units built at a density less than or equal to **10.9 units per gross acre**.

Density, moderate means, for the purposes of determining inclusionary housing requirements, the density of a project with dwelling units built at a density **greater than 10.9 units per gross acre and less than or equal to 14.5 units per gross acre**.

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Disabled veteran means the same as defined in Government Code Section 18541, any veteran as who is currently declared by the United States Veterans Administration to be 10 percent or more disabled as a result of service in the armed forces. Proof of such disability shall be deemed conclusive if it is of record in the United States Veterans Administration.

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19.910.090 - "H" Definitions.

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Homeless persons means the same as defined in Section 11302 of the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. Ch. 119).

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Household. See "single housekeeping unit."

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19.910.100 - "I" Definitions.

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In-lieu fee means a fee paid by an applicant into the City's Inclusionary Housing Fund in-lieu of constructing inclusionary units pursuant to Chapter 19.535.040.

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19.910.130 - "L" Definitions.

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Lower-income student means, for the purpose of determining a projects eligibility for a density bonus pursuant to Chapter 19.545, a student who has a household income and asset level that does not exceed the level for Cal Grant A or Cal Grant B award recipients as set forth Education Code Section 69432.7(k)(1). The eligibility of a student to occupy a unit for lower income students under this section shall be verified by an affidavit, award letter, or letter of eligibility provided by the institution of higher education in which the student is enrolled or by the California Student Aid Commission that the student receives or is eligible for financial aid, including an institutional grant or fee waiver from the college or university, the California Student Aid Commission, or the federal government.

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19.910.140 - "M" Definitions.

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Major transit stop has the same meaning as defined in subdivision (b) of Section 21155 of the Public Resources Code. It means a site containing an existing rail or bus rapid transit station; or the intersection of two or more

major bus routes with a frequency of service interval of 15 minutes or less at the morning and afternoon peak commute hours. It also includes planned major transit stops that are included in the regional transportation plan.

19.910.190 - "R" Definitions.

Resale restriction agreement means a legally binding agreement between the City and the purchaser of a for-sale inclusionary unit, in a form as approved by the City Attorney, which requires that the inclusionary unit to be occupied by the purchaser for the term of the agreement or sold to another moderate-income household at an affordable sales price.

Residential development project means any development project, including mixed-use projects, where an application for any ministerial or discretionary permit has been submitted, and where the development would create new or additional dwelling units by the construction or alteration of structures, the conversion of a use to residential from any other use, or the conversion of a use to for-sale residential from rental residential use.

19.910.210 - "T" Definitions.

Total units means, for the purpose of determining eligibility for a density bonus, the number of dwelling units in a residential development project, excluding the density bonus dwelling units awarded pursuant to Chapter 19.545 or any other applicable law or ordinance granting a greater density bonus.

Transitional foster youth means the same as defined in section 66025.9 of the Education Code.

19.910.220 - "U" Definitions.

Unit, for-sale means any dwelling unit, including but not limited to a condominium, townhome, other attached or detached single family dwelling unit, for which a parcel or tentative and final map is required for the lawful subdivision of the parcel upon which the dwelling unit is located for the creation of the unit in accordance with the Subdivision Map Act (California Government Code section 66410 et seq.).

Unit, inclusionary means a dwelling unit that is designated to meet the requirements set forth in Chapter 19.535, and that must be made available at an affordable housing cost or an affordable rent to eligible moderate-, low- or very low-income households, as applicable to the unit.

Unit, low-income means a dwelling unit that is required to be sold or rented to a low-income household at an affordable sales price or an affordable rent, as applicable.

Unit, market-rate means a dwelling unit in a residential development project that is not an inclusionary unit or is not otherwise restricted for sale, rent or occupancy by very low-, low- or moderate-income households.

Unit, moderate-income means a dwelling unit that is required to be sold or rented to a moderate-income household, or a low-income unit that is able to qualify to rent or purchase the moderate-income unit.

Units, rental mean a dwelling unit that is not a for-sale dwelling unit, and does not include any dwelling unit, whether offered for rental or sale, that may be sold as a result of the lawful subdivision of the parcel upon which the dwelling unit is located or creation of the unit in accordance with the Subdivision Map Act (Government Code section 66410 et seq.).

Unit, very low-income that is required to be sold or rented to a very low-income household at an affordable sales price or rent.

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Unobstructed access means a resident is able to access a major transit stop without encountering natural or constructed impediments, which include, but are not limited to, freeways, rivers, mountains, and bodies of water, but do not include residential structures, shopping centers, parking lots, or rails used for transit.

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SB-290 Density Bonus Law: qualifications for incentives or concessions: student housing for lower income students

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Date Published: 09/29/2021 10:00 AM

Senate Bill No. 290

CHAPTER 340

An act to amend Sections 65400 and 65915 of the Government Code, relating to housing.

[Approved by Governor September 28, 2021. Filed with Secretary of State September 28, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

SB 290, Skinner. Density Bonus Law: qualifications for incentives or concessions: student housing for lower income students: moderate-income persons and families: local government constraints.

Existing law, known as the Density Bonus Law, requires a city or county to provide a developer that proposes a housing development in the city or county with a density bonus and other incentives or concessions for the production of lower income housing units, or for the donation of land within the development, if the developer agrees to, among other things, construct a specified percentage of units for very low income, low-income, or moderate-income households or qualifying residents, including lower income students.

Existing law requires the amount of a density bonus and the number of incentives or concessions a qualifying developer receives to be pursuant to a certain formula based on the total number of units in the housing development, as specified.

This bill would require a unit designated to satisfy the inclusionary zoning requirements of a city or county to be included in the total number of units on which a density bonus and the number of incentives or concessions are based. The bill would require a city or county to grant one incentive or concession for a student housing development project that will include at least 20% of the total units for lower income students.

Existing law requires a city or county to grant a density bonus and certain incentives or concessions if the developer agrees to construct a common interest development that will contain a specified percentage of units for persons and families of moderate income, as specified, if all units in the development are offered to the public for purchase.

This bill would instead require a city or county to grant that density bonus and those incentives or concessions if the developer agrees to construct a housing development that will contain that specified percentage of units for persons and families of moderate income, as specified.

Existing law, upon the request of the developer, prohibits a city or county from imposing a vehicular parking ratio, inclusive of parking for persons with a disability and guests, that exceeds 0.5 spaces per unit, if the development meets specified affordability requirements, including at least 20% low-income units or at least 11% very low income units, is located within one-half mile of a major transit stop, and the residents of the development have unobstructed access to the major transit stop from the development.

This bill, would, additionally, upon the request of the developer, prohibit a city or county from imposing the above-described parking ratio, if the development meets specified affordability requirements, including at least 40% moderate-income units, is located within one-half mile of a major transit stop, and the residents of the development have unobstructed access to the major transit stop from the development.

Existing law requires the planning agency of the city or county to provide to the Department of Housing and Community Development, the Office of Planning and Research, and the legislative body of the city or county, by April 1 of each year, an annual report that includes, among other things, the city or county's progress in meeting its share of the regional housing needs.

This bill would require the planning agency to include in that report the number of units in a student housing development for lower income students for which the developer was granted a density bonus.

Existing law authorizes a city or county to refuse a concession or incentive if the city or county makes a written finding, based upon substantial evidence, that the concession or incentive would have a specified adverse impact on public health and safety, the physical environment, or real property listed in the California Register of Historical Resources. Existing law also prohibits certain provisions from being interpreted to require a local government to waive or reduce development standards if, among other reasons, the waiver or reduction would have a specified adverse impact upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specified adverse impact.

This bill would remove the specified adverse impact on the physical environment from the list of reasons for which a city or county is authorized to refuse a concession, an incentive, or a waiver or reduction of a development standard.

This bill would make findings and declarations related to the modifications to the Density Bonus Law made by this bill.

By imposing additional requirements on local governments with respect to density bonuses, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 65400 of the Government Code, as amended by Section 1.3 of Chapter 197 of the Statutes of 2020, is amended to read:

65400. (a) After the legislative body has adopted all or part of a general plan, the planning agency shall do both of the following:

(1) Investigate and make recommendations to the legislative body regarding reasonable and practical means for implementing the general plan or element of the general plan, so that it will serve as an effective guide for orderly growth and development, preservation and conservation of open-space land and natural resources, and the efficient expenditure of public funds relating to the subjects addressed in the general plan.

(2) Provide by April 1 of each year an annual report to the legislative body, the Office of Planning and Research, and the Department of Housing and Community Development that includes all of the following:

(A) The status of the plan and progress in its implementation.

(B) (i) The progress in meeting its share of regional housing needs determined pursuant to Section 65584 and local efforts to remove governmental constraints to the maintenance, improvement, and development of housing pursuant to paragraph (3) of subdivision (c) of Section 65583.

(ii) The housing element portion of the annual report, as required by this paragraph, shall be prepared through the use of standards, forms, and definitions adopted by the Department of Housing and Community Development. The department may review, adopt, amend, and repeal the standards, forms, or definitions, to implement this article. Any standards, forms, or definitions adopted to implement this article shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2. Before and after adoption of the forms, the housing element portion of the annual report shall include a section that describes the actions taken by the local government towards completion of the programs and status of the local government's compliance with the deadlines in its housing element. That report shall be considered at an annual public meeting before the legislative body where members of the public shall be allowed to provide oral testimony and written comments.

(iii) The report may include the number of units that have been completed pursuant to subdivision (c) of Section 65583.1. For purposes of this paragraph, committed assistance may be executed throughout the planning period, and the program under paragraph (1) of subdivision (c) of Section 65583.1 shall not be required. The report shall document how the units meet the standards set forth in that subdivision.

(iv) The planning agency shall include the number of units in a student housing development for lower income students for which the developer of the student housing development was granted a density bonus pursuant to subparagraph (F) of paragraph (1) of subdivision (b) of Section 65915.

(C) The number of housing development applications received in the prior year.

(D) The number of units included in all development applications in the prior year.

(E) The number of units approved and disapproved in the prior year.

(F) The degree to which its approved general plan complies with the guidelines developed and adopted pursuant to Section 65040.2 and the date of the last revision to the general plan.

(G) A listing of sites rezoned to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory required by paragraph (1) of subdivision (c) of Section 65583 and Section 65584.09. The listing of sites shall also include any additional sites that may have been required to be identified by Section 65863.

(H) The number of net new units of housing, including both rental housing and for-sale housing and any units that the County of Napa or the City of Napa may report pursuant to an agreement entered into pursuant to Section 65584.08, that have been issued a completed entitlement, a building permit, or a certificate of occupancy, thus far in the housing element cycle, and the income category, by area median income category, that each unit of housing satisfies. That production report shall, for each income category described in this subparagraph, distinguish between the number of rental housing units and the number of for-sale units that satisfy each income category. The production report shall include, for each entitlement, building permit, or certificate of occupancy, a unique site identifier that must include the assessor's parcel number, but may include street address, or other identifiers.

(I) The number of applications submitted pursuant to subdivision (a) of Section 65913.4, the location and the total number of developments approved pursuant to subdivision (c) of Section 65913.4, the total number of building permits issued pursuant to subdivision (c) of Section 65913.4, the total number of units including both rental housing and for-sale housing by area median income category constructed using the process provided for in subdivision (c) of Section 65913.4.

(J) If the city or county has received funding pursuant to the Local Government Planning Support Grants Program (Chapter 3.1 (commencing with Section 50515) of Part 2 of Division 31 of the Health and Safety Code), the information required pursuant to subdivision (a) of Section 50515.04 of the Health and Safety Code.

(K) The progress of the city or county in adopting or amending its general plan or local open-space element in compliance with its obligations to consult with California Native American tribes, and to identify and protect, preserve, and mitigate impacts to places, features, and objects described in Sections 5097.9 and 5097.993 of the Public Resources Code, pursuant to Chapter 905 of the Statutes of 2004.

(L) The following information with respect to density bonuses granted in accordance with Section 65915:

(i) The number of density bonus applications received by the city or county.

(ii) The number of density bonus applications approved by the city or county.

(iii) Data from a sample of projects, selected by the planning agency, approved to receive a density bonus from the city or county, including, but not limited to, the percentage of density bonus received, the percentage of affordable units in the project, the number of other incentives or concessions granted to the project, and any waiver or reduction of parking standards for the project.

(b) If a court finds, upon a motion to that effect, that a city, county, or city and county failed to submit, within 60 days of the deadline established in this section, the housing element portion of the report required pursuant to subparagraph (B) of paragraph (2) of subdivision (a) that substantially complies with the requirements of this section, the court shall issue an order or judgment compelling compliance with this section within 60 days. If the city, county, or city and county fails to comply with the court's order within 60 days, the plaintiff or petitioner may move for sanctions, and the court may, upon that motion, grant appropriate sanctions. The court shall retain jurisdiction to ensure that its order or judgment is carried out. If the court determines that its order or judgment is not carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled. This subdivision applies to proceedings initiated on or after the first day of October following the adoption of forms and definitions by the Department of Housing and Community Development pursuant to paragraph (2) of subdivision (a), but no sooner than six months following that adoption.

(c) The Department of Housing and Community Development shall post a report submitted pursuant to this section on its internet website within a reasonable time of receiving the report.

SEC. 2. Section 65915 of the Government Code, as amended by Section 2 of Chapter 197 of the Statutes of 2020, is amended to read:

65915. (a) (1) When an applicant seeks a density bonus for a housing development within, or for the donation of land for housing within, the jurisdiction of a city, county, or city and county, that local government shall comply with this section. A city, county, or city and county shall adopt an ordinance that specifies how compliance with this section will be implemented. Except as otherwise provided in subdivision (s), failure to adopt an ordinance shall not relieve a city, county, or city and county from complying with this section.

(2) A local government shall not condition the submission, review, or approval of an application pursuant to this chapter on the preparation of an additional report or study that is not otherwise required by state law, including this section. This subdivision does not prohibit a local government from requiring an applicant to provide reasonable documentation to establish eligibility for a requested density bonus, incentives or concessions, as described in subdivision (d), waivers or reductions of development standards, as described in subdivision (e), and parking ratios, as described in subdivision (p).

(3) In order to provide for the expeditious processing of a density bonus application, the local government shall do all of the following:

(A) Adopt procedures and timelines for processing a density bonus application.

(B) Provide a list of all documents and information required to be submitted with the density bonus application in order for the density bonus application to be deemed complete. This list shall be consistent with this chapter.

(C) Notify the applicant for a density bonus whether the application is complete in a manner consistent with the timelines specified in Section 65943.

(D) (i) If the local government notifies the applicant that the application is deemed complete pursuant to subparagraph (C), provide the applicant with a determination as to the following matters:

(I) The amount of density bonus, calculated pursuant to subdivision (f), for which the applicant is eligible.

(II) If the applicant requests a parking ratio pursuant to subdivision (p), the parking ratio for which the applicant is eligible.

(III) If the applicant requests incentives or concessions pursuant to subdivision (d) or waivers or reductions of development standards pursuant to subdivision (e), whether the applicant has provided adequate information for the local government to make a determination as to those incentives, concessions, or waivers or reductions of development standards.

(ii) Any determination required by this subparagraph shall be based on the development project at the time the application is deemed complete. The local government shall adjust the amount of density bonus and parking ratios awarded pursuant to this section based on any changes to the project during the course of development.

(b) (1) A city, county, or city and county shall grant one density bonus, the amount of which shall be as specified in subdivision (f), and, if requested by the applicant and consistent with the applicable requirements of this section, incentives or concessions, as described in subdivision (d), waivers or reductions of development standards, as described in subdivision (e), and parking ratios, as described in subdivision (p), if an applicant for a housing development seeks and agrees to construct a housing development, excluding any units permitted by the density bonus awarded pursuant to this section, that will contain at least any one of the following:

(A) Ten percent of the total units of a housing development for rental or sale to lower income households, as defined in Section 50079.5 of the Health and Safety Code.

(B) Five percent of the total units of a housing development for rental or sale to very low income households, as defined in Section 50105 of the Health and Safety Code.

(C) A senior citizen housing development, as defined in Sections 51.3 and 51.12 of the Civil Code, or a mobilehome park that limits residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the Civil Code.

(D) Ten percent of the total dwelling units of a housing development are sold to persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code, provided that all units in the development are offered to the public for purchase.

(E) Ten percent of the total units of a housing development for transitional foster youth, as defined in Section 66025.9 of the Education Code, disabled veterans, as defined in Section 18541, or homeless persons, as defined in the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11301 et seq.). The units described in this subparagraph shall be subject to a recorded affordability restriction of 55 years and shall be provided at the same affordability level as very low income units.

(F) (i) Twenty percent of the total units for lower income students in a student housing development that meets the following requirements:

(I) All units in the student housing development will be used exclusively for undergraduate, graduate, or professional students enrolled full time at an institution of higher education accredited by the Western Association of Schools and Colleges or the Accrediting Commission for Community and Junior Colleges. In order to be eligible under this subclause, the developer shall, as a condition of receiving a certificate of occupancy, provide evidence to the city, county, or city and county that the developer has entered into an operating agreement or master lease with one or more institutions of higher education for the institution or institutions to occupy all units of the student housing development with students from that institution or institutions. An operating agreement or master lease entered into pursuant to this subclause is not violated or breached if, in any subsequent year, there are not sufficient students enrolled in an institution of higher education to fill all units in the student housing development.

(II) The applicable 20-percent units will be used for lower income students.

(III) The rent provided in the applicable units of the development for lower income students shall be calculated at 30 percent of 65 percent of the area median income for a single-room occupancy unit type.

(IV) The development will provide priority for the applicable affordable units for lower income students experiencing homelessness. A homeless service provider, as defined in paragraph (3) of subdivision (e) of Section 103577 of the Health and Safety Code, or institution of higher education that has knowledge of a person's homeless status may verify a person's status as homeless for purposes of this subclause.

(ii) For purposes of calculating a density bonus granted pursuant to this subparagraph, the term "unit" as used in this section means one rental bed and its pro rata share of associated common area facilities. The units described in this subparagraph shall be subject to a recorded affordability restriction of 55 years.

(G) One hundred percent of all units in the development, including total units and density bonus units, but exclusive of a manager's unit or units, are for lower income households, as defined by Section 50079.5 of the Health and Safety Code, except that up to 20 percent of the units in the development, including total units and density bonus units, may be for moderate-income households, as defined in Section 50053 of the Health and Safety Code.

(2) For purposes of calculating the amount of the density bonus pursuant to subdivision (f), an applicant who requests a density bonus pursuant to this subdivision shall elect whether the bonus shall be awarded on the basis of subparagraph (A), (B), (C), (D), (E), (F), or (G) of paragraph (1).

(c) (1) (A) An applicant shall agree to, and the city, county, or city and county shall ensure, the continued affordability of all very low and low-income rental units that qualified the applicant for the award of the density bonus for 55 years or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program.

(B) (i) Except as otherwise provided in clause (ii), rents for the lower income density bonus units shall be set at an affordable rent, as defined in Section 50053 of the Health and Safety Code.

(ii) For housing developments meeting the criteria of subparagraph (G) of paragraph (1) of subdivision (b), rents for all units in the development, including both base density and density bonus units, shall be as follows:

(I) The rent for at least 20 percent of the units in the development shall be set at an affordable rent, as defined in Section 50053 of the Health and Safety Code.

(II) The rent for the remaining units in the development shall be set at an amount consistent with the maximum rent levels for a housing development that receives an allocation of state or federal low-income housing tax credits from the California Tax Credit Allocation Committee.

(2) An applicant shall agree to, and the city, county, or city and county shall ensure that, the initial occupant of all for-sale units that qualified the applicant for the award of the density bonus are persons and families of very low, low, or moderate income, as required, and that the units are offered at an affordable housing cost, as that cost is defined in Section 50052.5 of the Health and Safety Code. The local government shall enforce an equity sharing agreement, unless it is in conflict with the requirements of another public funding source or law. The following apply to the equity sharing agreement:

(A) Upon resale, the seller of the unit shall retain the value of any improvements, the downpayment, and the seller's proportionate share of appreciation. The local government shall recapture any initial subsidy, as defined in subparagraph (B), and its proportionate share of appreciation, as defined in subparagraph (C), which amount shall be used within five years for any of the purposes described in subdivision (e) of Section 33334.2 of the Health and Safety Code that promote home ownership.

(B) For purposes of this subdivision, the local government'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 to the moderate-income household, plus the amount of any downpayment 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.

(C) For purposes of this subdivision, the local government's proportionate share of appreciation shall be equal to the ratio of the local government's initial subsidy to the fair market value of the home at the time of initial sale.

(3) (A) An applicant shall be ineligible for a density bonus or any other incentives or concessions under this section if the housing development is proposed on any property that includes a parcel or parcels on which rental dwelling units are or, if the dwelling units have been vacated or demolished in the five-year period preceding the application, have been subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of lower or very low income; subject to any other form of rent or price control through a public entity's valid exercise of its police power; or occupied by lower or very low income households, unless the proposed housing development replaces those units, and either of the following applies:

(i) The proposed housing development, inclusive of the units replaced pursuant to this paragraph, contains affordable units at the percentages set forth in subdivision (b).

(ii) Each unit in the development, exclusive of a manager's unit or units, is affordable to, and occupied by, either a lower or very low income household.

(B) For the purposes of this paragraph, "replace" shall mean either of the following:

(i) If any dwelling units described in subparagraph (A) are occupied on the date of application, the proposed housing development shall provide at least the same number of units of equivalent size to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those households in occupancy. If the income category of the household in occupancy is not known, it shall be rebuttably presumed that lower income renter households occupied these units in the same proportion of lower income renter households to all renter households within the jurisdiction, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database. For unoccupied dwelling units described in subparagraph (A) in a development with occupied units, the proposed housing development shall provide units of equivalent size to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as the last household in occupancy. If the income category of the last household in occupancy is not known, it shall be rebuttably presumed that lower income renter households occupied these units in the same proportion of lower income renter households to all renter households within the jurisdiction, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database. All replacement calculations resulting in fractional units shall be rounded up to the next whole number. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years. If the proposed development is for-sale units, the units replaced shall be subject to paragraph (2).

(ii) If all dwelling units described in subparagraph (A) have been vacated or demolished within the five-year period preceding the application, the proposed housing development shall provide at least the same number of units of equivalent size as existed at the highpoint of those units in the five-year period preceding the application to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those persons and families in occupancy at that time, if known. If the incomes of the persons and families in occupancy at the highpoint is not known, it shall be rebuttably presumed that low-income and very low income renter households occupied these units in the same proportion of low-income and very low income renter households to all renter households within the jurisdiction, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database. All replacement calculations resulting in fractional units shall be rounded up to the next whole number. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years. If the proposed development is for-sale units, the units replaced shall be subject to paragraph (2).

(C) Notwithstanding subparagraph (B), for any dwelling unit described in subparagraph (A) that is or was, within the five-year period preceding the application, subject to a form of rent or price control through a local government's valid exercise of its police power and that is or was occupied by persons or families above lower income, the city, county, or city and county may do either of the following:

(i) Require that the replacement units be made available at affordable rent or affordable housing cost to, and occupied by, low-income persons or families. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years. If the proposed development is for-sale units, the units replaced shall be subject to paragraph (2).

(ii) Require that the units be replaced in compliance with the jurisdiction's rent or price control ordinance, provided that each unit described in subparagraph (A) is replaced. Unless otherwise required by the jurisdiction's rent or price control ordinance, these units shall not be subject to a recorded affordability restriction.

(D) For purposes of this paragraph, "equivalent size" means that the replacement units contain at least the same total number of bedrooms as the units being replaced.

(E) Subparagraph (A) does not apply to an applicant seeking a density bonus for a proposed housing development if the applicant's application was submitted to, or processed by, a city, county, or city and county before January 1, 2015.

(d) (1) An applicant for a density bonus pursuant to subdivision (b) may submit to a city, county, or city and county a proposal for the specific incentives or concessions that the applicant requests pursuant to this section, and may request a meeting with the city, county, or city and county. The city, county, or city and county shall grant the concession or incentive requested by the applicant unless the city, county, or city and county makes a written finding, based upon substantial evidence, of any of the following:

(A) The concession or incentive does not result in identifiable and actual cost reductions, consistent with subdivision (k), to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).

(B) The concession or incentive would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or on any real 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-income and moderate-income households.

(C) The concession or incentive would be contrary to state or federal law.

(2) The applicant shall receive the following number of incentives or concessions:

(A) One incentive or concession for projects that include at least 10 percent of the total units for lower 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 development in which the units are for sale.

(B) Two incentives or concessions for projects that include at least 17 percent of the total units for lower 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 development in which the units are for sale.

(C) Three incentives or concessions for projects that include at least 24 percent of the total units for lower 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 development in which the units are for sale.

(D) Four incentives or concessions for a project meeting the criteria of subparagraph (G) of paragraph (1) of subdivision (b). If the project is located within one-half mile of a major transit stop, the applicant shall also receive a height increase of up to three additional stories, or 33 feet.

(E) One incentive or concession for projects that include at least 20 percent of the total units for lower income students in a student housing development.

(3) The applicant may initiate judicial proceedings if the city, county, or city and county refuses to grant a requested density bonus, incentive, or concession. If a court finds that the refusal to grant a requested density bonus, incentive, or concession is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit. This subdivision shall not be interpreted to require a local government to grant an incentive or concession that has a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health or safety, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. This subdivision shall not be interpreted to require a local government to grant an incentive or concession that would have an adverse impact on any real property that is listed in the California Register of Historical Resources. The city, county, or city and county shall establish procedures for carrying out this section that shall include legislative body approval of the means of compliance with this section.

(4) The city, county, or city and county shall bear the burden of proof for the denial of a requested concession or incentive.

(e) (1) In no case may a city, county, or city and county apply any development standard that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted by this section. Subject to paragraph (3), an applicant may submit to a city, county, or city and county a proposal for the waiver or reduction of development standards that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted under this section, and may request a meeting with the city, county, or city and county. If a court finds that the refusal to grant a waiver or reduction of development standards is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit. This subdivision shall not be interpreted to require a local government to waive or reduce development standards if the waiver or reduction would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health or safety, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. This subdivision shall not be interpreted to require a local government to waive or reduce development standards that would have an adverse impact on any real property that is listed in the California Register of Historical Resources, or to grant any waiver or reduction that would be contrary to state or federal law.

(2) A proposal for the waiver or reduction of development standards pursuant to this subdivision shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to subdivision (d).

(3) A housing development that receives a waiver from any maximum controls on density pursuant to clause (ii) of subparagraph (D) of paragraph (3) of subdivision (f) shall only be eligible for a waiver or reduction of development standards as provided in subparagraph (D) of paragraph (2) of subdivision (d) and clause (ii) of subparagraph (D) of paragraph (3) of subdivision (f), unless the city, county, or city and county agrees to additional waivers or reductions of development standards.

(f) For the purposes of this chapter, "density bonus" means a density increase over the otherwise maximum allowable gross residential density as of the date of application by the applicant to the city, county, or city and county, or, if elected by the applicant, a lesser percentage of density increase, including, but not limited to, no increase in density. The amount of density increase to which the applicant is entitled shall vary according to the amount by which the percentage of affordable housing units exceeds the percentage established in subdivision (b).

(1) For housing developments meeting the criteria of subparagraph (A) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Low-Income Units	Percentage Density Bonus
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
21	38.75
22	42.5
23	46.25
24	50

(2) For housing developments meeting the criteria of subparagraph (B) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Very Low Income Units	Percentage Density Bonus
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35
12	38.75
13	42.5
14	46.25
15	50

(3) (A) For housing developments meeting the criteria of subparagraph (C) of paragraph (1) of subdivision (b), the density bonus shall be 20 percent of the number of senior housing units.

(B) For housing developments meeting the criteria of subparagraph (E) of paragraph (1) of subdivision (b), the density bonus shall be 20 percent of the number of the type of units giving rise to a density bonus under that subparagraph.

(C) For housing developments meeting the criteria of subparagraph (F) of paragraph (1) of subdivision (b), the density bonus shall be 35 percent of the student housing units.

(D) For housing developments meeting the criteria of subparagraph (G) of paragraph (1) of subdivision (b), the following shall apply:

(i) Except as otherwise provided in clause (ii), the density bonus shall be 80 percent of the number of units for lower income households.

(ii) If the housing development is located within one-half mile of a major transit stop, the city, county, or city and county shall not impose any maximum controls on density.

(4) For housing developments meeting the criteria of subparagraph (D) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Moderate-Income Units	Percentage Density Bonus
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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
41	38.75
42	42.5
43	46.25
44	50

(5) All density calculations resulting in fractional units shall be rounded up to the next whole number. The granting of a density bonus shall not require, or be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary approval.

(g) (1) When an applicant for a tentative subdivision map, parcel map, or other residential development approval donates land to a city, county, or city and county in accordance with this subdivision, the applicant shall be entitled to a 15-percent increase above the otherwise maximum allowable residential density for the entire development, as follows:

Percentage Very Low Income	Percentage Density Bonus
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

(2) This increase shall be in addition to any increase in density mandated by subdivision (b), up to a maximum combined mandated density increase of 35 percent if an applicant seeks an increase pursuant to both this subdivision and subdivision (b). All density calculations resulting in fractional units shall be rounded up to the next whole number. Nothing in this subdivision shall be construed to enlarge or diminish the authority of a city, county, or city and county to require a developer to donate land as a condition of development. An applicant shall be eligible for the increased density bonus described in this subdivision if all of the following conditions are met:

(A) 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.

(B) 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 not less than 10 percent of the number of residential units of the proposed development.

(C) The transferred land is 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 with appropriate development standards for development at the density described in paragraph (3) of subdivision (c) of Section 65583.2, and is or will be served by adequate public facilities and infrastructure.

(D) The transferred land shall 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, not later than the date of approval of the final subdivision map, parcel map, or residential development application, except that the local government may subject the proposed development to subsequent design review to the extent authorized by subdivision (i) of Section 65583.2 if the design is not reviewed by the local government before the time of transfer.

(E) The transferred land and the affordable units shall be subject to a deed restriction ensuring continued affordability of the units consistent with paragraphs (1) and (2) of subdivision (c), which shall be recorded on the property at the time of the transfer.

(F) The land is transferred to the local agency or to a housing developer approved by the local agency. The local agency may require the applicant to identify and transfer the land to the developer.

(G) The transferred land shall be within the boundary of the proposed development or, if the local agency agrees, within one-quarter mile of the boundary of the proposed development.

(H) 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.

(h) (1) When an applicant proposes to construct a housing development that conforms to the requirements of subdivision (b) and includes a childcare facility that will be located on the premises of, as part of, or adjacent to, the project, the city, county, or city and county shall grant either of the following:

(A) 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 childcare facility.

(B) An additional concession or incentive that contributes significantly to the economic feasibility of the construction of the childcare facility.

(2) The city, county, or city and county shall require, as a condition of approving the housing development, that the following occur:

(A) The childcare 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 pursuant to subdivision (c).

(B) Of the children who attend the childcare facility, 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 income households, lower income households, or families of moderate income pursuant to subdivision (b).

(3) Notwithstanding any requirement of this subdivision, a city, county, or city and county shall not be required to provide a density bonus or concession for a childcare facility if it finds, based upon substantial evidence, that the community has adequate childcare facilities.

(4) "Childcare facility," as used in this section, means a child daycare facility other than a family daycare home, including, but not limited to, infant centers, preschools, extended daycare facilities, and schoolage childcare centers.

(i) "Housing development," as used in this section, means a development project for five or more residential units, including mixed-use developments. For the purposes of this section, "housing development" also includes a subdivision or common interest development, as defined in Section 4100 of the Civil Code, approved by a city, county, or city and county and consists of residential units or unimproved residential lots and either a project to substantially rehabilitate and convert an existing commercial building to residential use or the substantial rehabilitation of an existing multifamily dwelling, as defined in subdivision (d) of Section 65863.4, where the result of the rehabilitation would be a net increase in available residential units. For the purpose of calculating a density bonus, the residential units shall be on contiguous sites that are the subject of one development application, but do not have to be based upon individual subdivision maps or parcels. The density bonus shall be permitted in geographic areas of the housing development other than the areas where the units for the lower income households are located.

(j) (1) The granting of a concession or incentive shall not require or be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, study, or other discretionary approval. For purposes of this subdivision, "study" does not include reasonable documentation to establish eligibility for the concession or incentive or to demonstrate that the incentive or concession meets the definition set forth in subdivision (k). This provision is declaratory of existing law.

(2) Except as provided in subdivisions (d) and (e), the granting of a density bonus shall not require or be interpreted to require the waiver of a local ordinance or provisions of a local ordinance unrelated to development standards.

(k) For the purposes of this chapter, concession or incentive means any of the following:

(1) A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, including, but not limited to, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required that results in identifiable and actual cost reductions, to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).

(2) 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.

(3) Other regulatory incentives or concessions proposed by the developer or the city, county, or city and county that result in identifiable and actual cost reductions to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).

(l) Subdivision (k) does not limit or require the provision of direct financial incentives for the housing development, including the provision of publicly owned land, by the city, county, or city and county, or the waiver of fees or dedication requirements.

(m) This section does not supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code). Any density bonus, concessions, incentives, waivers or reductions of development standards, and parking ratios to which the applicant is entitled under this section shall be permitted in a manner that is consistent with this section and Division 20 (commencing with Section 30000) of the Public Resources Code.

(n) If permitted by local ordinance, nothing in this section shall be construed to prohibit a city, county, or city and county from granting a density bonus greater than what is described in this section for a development that meets the requirements of this section or from granting a proportionately lower density bonus than what is required by this section for developments that do not meet the requirements of this section.

(o) For purposes of this section, the following definitions shall apply:

(1) "Development standard" includes a site or construction condition, including, but not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open-space requirement, or a parking ratio that applies to a residential

development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation.

(2) "Located within one-half mile of a major transit stop" means that any point on a proposed development, for which an applicant seeks a density bonus, other incentives or concessions, waivers or reductions of development standards, or a vehicular parking ratio pursuant to this section, is within one-half mile of any point on the property on which a major transit stop is located, including any parking lot owned by the transit authority or other local agency operating the major transit stop.

(3) "Lower income student" means a student who has a household income and asset level that does not exceed the level for Cal Grant A or Cal Grant B award recipients as set forth in paragraph (1) of subdivision (k) of Section 69432.7 of the Education Code. The eligibility of a student to occupy a unit for lower income students under this section shall be verified by an affidavit, award letter, or letter of eligibility provided by the institution of higher education in which the student is enrolled or by the California Student Aid Commission that the student receives or is eligible for financial aid, including an institutional grant or fee waiver from the college or university, the California Student Aid Commission, or the federal government.

(4) "Major transit stop" has the same meaning as defined in subdivision (b) of Section 21155 of the Public Resources Code.

(5) "Maximum allowable residential density" means the density allowed under the zoning ordinance and land use element of the general plan, or, if a range of density is permitted, means the maximum allowable density for the specific zoning range and land use element of the general plan applicable to the project. If the density allowed under the zoning ordinance is inconsistent with the density allowed under the land use element of the general plan, the general plan density shall prevail.

(6) "Total units" or "total dwelling units" means a calculation of the number of units that:

(A) Excludes a unit added by a density bonus awarded pursuant to this section or any local law granting a greater density bonus.

(B) Includes a unit designated to satisfy an inclusionary zoning requirement of a city, county, or city and county.

(p) (1) Except as provided in paragraphs (2), (3), and (4), upon the request of the developer, a city, county, or city and county shall not require a vehicular parking ratio, inclusive of parking for persons with a disability and guests, of a development meeting the criteria of subdivisions (b) and (c), that exceeds the following ratios:

(A) Zero to one bedroom: one onsite parking space.

(B) Two to three bedrooms: one and one-half onsite parking spaces.

(C) Four and more bedrooms: two and one-half parking spaces.

(2) (A) Notwithstanding paragraph (1), if a development includes at least 20 percent low-income units for housing developments meeting the criteria of subparagraph (A) of paragraph (1) of subdivision (b) or at least 11 percent very low income units for housing developments meeting the criteria of subparagraph (B) of paragraph (1) of subdivision (b), is located within one-half mile of a major transit stop, and there is unobstructed access to the major transit stop from the development, then, upon the request of the developer, a city, county, or city and county shall not impose a vehicular parking ratio, inclusive of parking for persons with a disability and guests, that exceeds 0.5 spaces per unit. Notwithstanding paragraph (1), if a development includes at least 40 percent moderate-income units for housing developments meeting the criteria of subparagraph (D) of paragraph (1) of subdivision (b), is located within one-half mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code, and the residents of the development have unobstructed access to the major transit stop from the development then, upon the request of the developer, a city, county, or city and county shall not impose a vehicular parking ratio, inclusive of parking for persons with a disability and guests, that exceeds 0.5 spaces per bedroom.

(B) For purposes of this subdivision, "unobstructed access to the major transit stop" means a resident is able to access the major transit stop without encountering natural or constructed impediments. For purposes of this subparagraph, "natural or constructed impediments" includes, but is not limited to, freeways, rivers, mountains, and bodies of water, but does not include residential structures, shopping centers, parking lots, or rails used for transit.

(3) Notwithstanding paragraph (1), if a development consists solely of rental units, exclusive of a manager's unit or units, with an affordable housing cost to lower income families, as provided in Section 50052.5 of the Health and Safety Code, then, upon the request of the developer, a city, county, or city and county shall not impose vehicular parking standards if the development meets either of the following criteria:

(A) The development is located within one-half mile of a major transit stop and there is unobstructed access to the major transit stop from the development.

(B) The development is a for-rent housing development for individuals who are 62 years of age or older that complies with Sections 51.2 and 51.3 of the Civil Code and the development has either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.

(4) Notwithstanding paragraphs (1) and (8), if a development consists solely of rental units, exclusive of a manager's unit or units, with an affordable housing cost to lower income families, as provided in Section 50052.5 of the Health and Safety Code, and the development is either a special needs housing development, as defined in Section 51312 of the Health and Safety

Code, or a supportive housing development, as defined in Section 50675.14 of the Health and Safety Code, then, upon the request of the developer, a city, county, or city and county shall not impose any minimum vehicular parking requirement. A development that is a special needs housing development shall have either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.

(5) 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 subdivision, a development may provide onsite parking through tandem parking or uncovered parking, but not through onstreet parking.

(6) This subdivision shall apply to a development that meets the requirements of subdivisions (b) and (c), but only at the request of the applicant. An applicant may request parking incentives or concessions beyond those provided in this subdivision pursuant to subdivision (d).

(7) This subdivision does not preclude a city, county, or city and county from reducing or eliminating a parking requirement for development projects of any type in any location.

(8) Notwithstanding paragraphs (2) and (3), if a city, county, city and county, or an independent consultant has conducted an areawide or jurisdictionwide parking study in the last seven years, then the city, county, or city and county may impose a higher vehicular parking ratio not to exceed the ratio described in paragraph (1), based upon substantial evidence found in the parking study, that includes, but is not limited to, an analysis of parking availability, differing levels of transit access, walkability access to transit services, the potential for shared parking, the effect of parking requirements on the cost of market-rate and subsidized developments, and the lower rates of car ownership for low-income and very low income individuals, including seniors and special needs individuals. The city, county, or city and county shall pay the costs of any new study. The city, county, or city and county shall make findings, based on a parking study completed in conformity with this paragraph, supporting the need for the higher parking ratio.

(9) A request pursuant to this subdivision shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to subdivision (d).

(q) Each component of any density calculation, including base density and bonus density, resulting in fractional units shall be separately rounded up to the next whole number. The Legislature finds and declares that this provision is declaratory of existing law.

(r) This chapter shall be interpreted liberally in favor of producing the maximum number of total housing units.

(s) Notwithstanding any other law, if a city, including a charter city, county, or city and county has adopted an ordinance or a housing program, or both an ordinance and a housing program, that incentivizes the development of affordable housing that allows for density bonuses that exceed the density bonuses required by the version of this section effective through December 31, 2020, that city, county, or city and county is not required to amend or otherwise update its ordinance or corresponding affordable housing incentive program to comply with the amendments made to this section by the act adding this subdivision, and is exempt from complying with the incentive and concession calculation amendments made to this section by the act adding this subdivision as set forth in subdivision (d), particularly subparagraphs (C) and (D) of paragraph (2) of that subdivision, and the amendments made to the density tables under subdivision (f).

(t) (1) The Legislature finds and declares that the intent behind the Density Bonus Law is to allow public entities to reduce or even eliminate subsidies for a particular project by allowing a developer to include more total units in a project than would otherwise be allowed by the local zoning ordinance in exchange for affordable units. It further reaffirms that the intent is to cover at least some of the financing gap of affordable housing with regulatory incentives, rather than additional public subsidy.

(2) It is therefore the intent of the Legislature to make modifications to the Density Bonus Law by the act adding this subdivision to further incentivize the construction of very low, low-, and moderate-income housing units. It is further the intent of the Legislature in making these modifications to the Density Bonus Law to ensure that any additional benefits conferred upon a developer are balanced with the receipt of a public benefit in the form of adequate levels of affordable housing. The Legislature further intends that these modifications will ensure that the Density Bonus Law creates incentives for the construction of more housing across all areas of the state.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

Assembly Bill No. 2345**CHAPTER 197**

An act to amend Sections 65400 and 65915 of the Government Code, relating to housing.

[Approved by Governor September 28, 2020. Filed with Secretary of State
September 28, 2020.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2345, Gonzalez. Planning and zoning: density bonuses: annual report: affordable housing.

(1) The Planning and Zoning Law requires a city or county to adopt a general plan for land use development within its boundaries that includes, among other things, a housing element. That law requires the planning agency of a city or county to provide by April 1 of each year an annual report to, among other entities, the Department of Housing and Community Development that includes, among other specified information, the number of net new units of housing that have been issued a completed entitlement, a building permit, or a certificate of occupancy, thus far in the housing element cycle, as provided.

This bill would require that the annual report include specified information regarding density bonuses granted in accordance with specified law, as described below.

(2) Existing law, known as the Density Bonus Law, requires a city, county, or city and county to provide a developer that proposes a housing development within the jurisdictional boundaries of that city, county, or city and county with a density bonus and other incentives or concessions for the production of lower income housing units, or for the donation of land within the development, if the developer agrees to construct a specified percentage of units for very low income, low-income, or moderate-income households or qualifying residents and meets other requirements. Among other things, existing law requires a city, county, or city and county to provide a density bonus under these provisions if the developer agrees to construct a housing development in which 100% of the total units, exclusive of managers' units, for lower income households, as defined, but authorizes a housing development that qualifies under these provisions to include up to 20% of the total units for moderate-income households, as defined. For purposes of determining the qualifying amount of units in a development for purposes of awarding a density bonus, existing law specifies that "total units" does not include units added by a density bonus.

This bill would revise the requirements for a housing development that includes 100% of units for lower income households to instead require that the development include 100% of all units in the development, including both total units, defined as described above, and density bonus units, but exclusive of managers' units, are for lower income households, as defined, except that the development may include up to 20% of those units for moderate-income households.

(3) Existing law provides for the calculation of the amount of density bonus for each type of housing development that qualifies under these provisions. Existing law specifies the number of incentives or concessions that an applicant can receive. Existing law requires that an applicant receive 2 incentives or concessions for projects that include at least 20% of the total units for lower income households, at least 10% for very low income households, or at least 20% for persons or families of moderate income in a common interest development. Existing law requires that an applicant receive 3 incentives or concessions for projects that include

at least 30% of the total units for lower income households, at least 15% for very low income households, or at least 30% for persons or families of moderate income in a common interest development.

This bill, instead, would authorize an applicant to receive 2 incentives or concessions for projects that include at least 17% of the total units for lower income households, at least 10% of the total units for very low income households, or at least 20% for persons or families of moderate income in a common interest development. This bill would authorize an applicant to receive 3 incentives or concessions for projects that include at least 24% of the total units for lower income households, at least 15% of the total units for very low income households, or at least 30% for persons or families of moderate income in a common interest development.

(4) Existing law provides that a housing development that receives a waiver from any maximum controls on density, as specified, is not eligible for, and prohibits such a development from receiving, a waiver or reduction of development standards.

This bill, instead, would provide that a housing development that receives a waiver from any maximum controls on density, as specified, is only eligible for a specified waiver or reduction of development standards, unless the city, county, or city and county agrees to additional waivers or reductions of development standards.

(5) Existing law specifies that the density bonus, or the amount of the density increase over the otherwise allowable gross residential density, to which an applicant is entitled varies according to the amount by which the percentage of affordable housing units in a development exceeds a specified base percentage for units for lower income households, very low income households, senior citizens, persons and families of moderate income, transitional foster youth, or lower income students, as specified. Existing law authorizes a maximum density bonus of 35% for a housing development in which 20% or more of the total units are for lower income households. Existing law authorizes a maximum density bonus of 35% for a housing development in which 11% or more of the total units are for very low income households. Existing law authorizes a maximum density bonus of 35% for housing developments in which 40% or more of the total units are for persons and families of moderate income.

This bill would include a maximum density bonus for a housing development in which 16% of the total units are for lower income households and would increase the maximum density bonus, to up to 50%, for construction of a housing development in which a greater percentage than that described above of total units are for lower income households, very low income households, and persons and families of moderate income, as specified.

(6) Existing law, for projects in which 100% of the units are for lower income households, as described above, prohibits a city, county, or city and county from imposing any maximum controls on density, and in addition to the above-described incentives or concessions, requires that the applicant receive a specified height increase, if the project is located within ½ mile of a major transit stop, as defined. Existing law also requires, among other criteria for a project to be eligible for various vehicular parking ratios under the Density Bonus Law, as described below, that the project be located within ½ mile of a major transit stop, as defined.

This bill, for purposes of determining whether a project is located within ½ mile of a major transit stop under the Density Bonus Law, would require that the measurement of the distance of a development from a transit stop be measured from any point on the property of the proposed development to any point on the property where the transit stop is located. The bill would also make technical changes with respect to the definition of “major transit stop” under the Density Bonus Law.

(7) Existing law prohibits, except as provided, upon the request of a developer, a city, county, or city and county from requiring a vehicular parking ratio for a development that qualifies for a density bonus that exceeds specified amounts of onsite parking per bedroom. Existing law also specifies the parking ratios applicable to a development that include a maximum percentage of low-income or very low income units, that is located within ½ mile of a transit stop, and that provides unobstructed access to the transit stop from the development.

This bill would decrease the maximum ratio of vehicular parking for developments with 2 to 3 bedrooms, as specified. This bill would define the term “natural or constructed impediments” for purposes of determining

whether a development has unobstructed access to a transit stop. The bill would authorize a developer to request that a city, county, or city and county not impose vehicular parking standards if the development meets specified affordability requirements and either (A) provides unobstructed access to a major transit stop or (B) is a for-rent housing development for individuals who are 62 years of age or older that will have either paratransit service or unobstructed access to a fixed bus route, as specified.

(8) Existing law requires a city, county, or city and county to adopt an ordinance that specifies how it will implement the Density Bonus Law, but provides that failure to adopt an ordinance does not relieve a city, county, or city and county from complying with that law. Existing law also authorizes a city, county, or city and county, if permitted by local ordinance, to grant a density bonus greater than what is described in the Density Bonus Law or to grant a proportionately lower density bonus than what is required by the Density Bonus Law for developments that do not meet the requirements of that law.

This bill, notwithstanding any other law, would provide that a city, including a charter city, county, or city and county that has adopted an ordinance or a housing program, or both an ordinance and a housing program, that incentivizes the development of affordable housing that allows for density bonuses that exceed the density bonuses required by the Density Bonus Law effective through December 31, 2020, is not required to amend or otherwise update its ordinance or housing program to comply with the amendments made by this bill and is exempt from complying with the incentive and concession calculation amended by this bill, as provided.

(9) This bill would incorporate additional changes to Section 65400 of the Government Code proposed by AB 168 and SB 1085 to be operative only if this bill and either or both AB 168 and SB 1085 are enacted and this bill is enacted last.

This bill would incorporate additional changes to Section 65915 of the Government Code proposed by SB 1085 to be operative only if this bill and SB 1085 are enacted and this bill is enacted last.

(10) By adding to the duties of local planning officials with respect to preparing and submitting the above-described annual report to the Department of Housing and Community Development and awarding density bonuses, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Digest Key

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

Bill Text

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 65400 of the Government Code is amended to read:

65400. (a) After the legislative body has adopted all or part of a general plan, the planning agency shall do both of the following:

(1) Investigate and make recommendations to the legislative body regarding reasonable and practical means for implementing the general plan or element of the general plan, so that it will serve as an effective guide for orderly growth and development, preservation and conservation of open-space land and natural resources, and the efficient expenditure of public funds relating to the subjects addressed in the general plan.

(2) Provide by April 1 of each year an annual report to the legislative body, the Office of Planning and Research, and the Department of Housing and Community Development that includes all of the following:

(A) The status of the plan and progress in its implementation.

(B) (i) The progress in meeting its share of regional housing needs determined pursuant to Section 65584 and local efforts to remove governmental constraints to the maintenance, improvement, and development of housing pursuant to paragraph (3) of subdivision (c) of Section 65583.

(ii) The housing element portion of the annual report, as required by this paragraph, shall be prepared through the use of standards, forms, and definitions adopted by the Department of Housing and Community Development. The department may review, adopt, amend, and repeal the standards, forms, or definitions, to implement this article. Any standards, forms, or definitions adopted to implement this article shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2. Before and after adoption of the forms, the housing element portion of the annual report shall include a section that describes the actions taken by the local government towards completion of the programs and status of the local government's compliance with the deadlines in its housing element. That report shall be considered at an annual public meeting before the legislative body where members of the public shall be allowed to provide oral testimony and written comments.

(iii) The report may include the number of units that have been completed pursuant to subdivision (c) of Section 65583.1. For purposes of this paragraph, committed assistance may be executed throughout the planning period, and the program under paragraph (1) of subdivision (c) of Section 65583.1 shall not be required. The report shall document how the units meet the standards set forth in that subdivision.

(C) The number of housing development applications received in the prior year.

(D) The number of units included in all development applications in the prior year.

(E) The number of units approved and disapproved in the prior year.

(F) The degree to which its approved general plan complies with the guidelines developed and adopted pursuant to Section 65040.2 and the date of the last revision to the general plan.

(G) A listing of sites rezoned to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory required by paragraph (1) of subdivision (c) of Section 65583 and Section 65584.09. The listing of sites shall also include any additional sites that may have been required to be identified by Section 65863.

(H) The number of net new units of housing, including both rental housing and for-sale housing and any units that the County of Napa or the City of Napa may report pursuant to an agreement entered into pursuant to Section 65584.08, that have been issued a completed entitlement, a building permit, or a certificate of occupancy, thus far in the housing element cycle, and the income category, by area median income category, that each unit of housing satisfies. That production report shall, for each income category described in this subparagraph, distinguish between the number of rental housing units and the number of for-sale units that satisfy each income category. The production report shall include, for each entitlement, building permit, or certificate of occupancy, a unique site identifier that must include the assessor's parcel number, but may include street address, or other identifiers.

(I) The number of applications submitted pursuant to subdivision (a) of Section 65913.4, the location and the total number of developments approved pursuant to subdivision (b) of Section 65913.4, the total number of building permits issued pursuant to subdivision (b) of Section 65913.4, the total number of units including both rental housing and for-sale housing by area median income category constructed using the process provided for in subdivision (b) of Section 65913.4.

(J) If the city or county has received funding pursuant to the Local Government Planning Support Grants Program (Chapter 3.1 (commencing with Section 50515) of Part 2 of Division 31 of the Health and Safety Code), the information required pursuant to subdivision (a) of Section 50515.04 of the Health and Safety Code.

(K) The following information with respect to density bonuses granted in accordance with Section 65915:

(i) The number of density bonus applications received by the city or county.

(ii) The number of density bonus applications approved by the city or county.

(iii) Data from a sample of projects, selected by the planning agency, approved to receive a density bonus from the city or county, including, but not limited to, the percentage of density bonus received, the percentage of affordable units in the project, the number of other incentives or concessions granted to the project, and any waiver or reduction of parking standards for the project.

(L) The Department of Housing and Community Development shall post a report submitted pursuant to this paragraph on its internet website within a reasonable time of receiving the report.

(b) If a court finds, upon a motion to that effect, that a city, county, or city and county failed to submit, within 60 days of the deadline established in this section, the housing element portion of the report required pursuant to subparagraph (B) of paragraph (2) of subdivision (a) that substantially complies with the requirements of this section, the court shall issue an order or judgment compelling compliance with this section within 60 days. If the city, county, or city and county fails to comply with the court's order within 60 days, the plaintiff or petitioner may move for sanctions, and the court may, upon that motion, grant appropriate sanctions. The court shall retain jurisdiction to ensure that its order or judgment is carried out. If the court determines that its order or judgment is not carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled. This subdivision applies to proceedings initiated on or after the first day of October following the adoption of forms and definitions by the Department of Housing and Community Development pursuant to paragraph (2) of subdivision (a), but no sooner than six months following that adoption.

SEC. 1.3. Section 65400 of the Government Code is amended to read:

65400. (a) After the legislative body has adopted all or part of a general plan, the planning agency shall do both of the following:

(1) Investigate and make recommendations to the legislative body regarding reasonable and practical means for implementing the general plan or element of the general plan, so that it will serve as an effective guide for orderly growth and development, preservation and conservation of open-space land and natural resources, and the efficient expenditure of public funds relating to the subjects addressed in the general plan.

(2) Provide by April 1 of each year an annual report to the legislative body, the Office of Planning and Research, and the Department of Housing and Community Development that includes all of the following:

(A) The status of the plan and progress in its implementation.

(B) (i) The progress in meeting its share of regional housing needs determined pursuant to Section 65584 and local efforts to remove governmental constraints to the maintenance, improvement, and development of housing pursuant to paragraph (3) of subdivision (c) of Section 65583.

(ii) The housing element portion of the annual report, as required by this paragraph, shall be prepared through the use of standards, forms, and definitions adopted by the Department of Housing and Community Development. The department may review, adopt, amend, and repeal the standards, forms, or definitions, to implement this article. Any standards, forms, or definitions adopted to implement this article shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2. Before and after adoption of the forms, the housing element portion of the annual report shall include a section that describes the actions taken by the local government towards completion of the programs and status of the local government's compliance with the deadlines in its housing element. That report shall be considered at an annual public meeting before the legislative body where members of the public shall be allowed to provide oral testimony and written comments.

(iii) The report may include the number of units that have been completed pursuant to subdivision (c) of Section 65583.1. For purposes of this paragraph, committed assistance may be executed throughout the planning period, and the program under paragraph (1) of subdivision (c) of Section 65583.1 shall not be required. The report shall document how the units meet the standards set forth in that subdivision.

(C) The number of housing development applications received in the prior year.

(D) The number of units included in all development applications in the prior year.

(E) The number of units approved and disapproved in the prior year.

(F) The degree to which its approved general plan complies with the guidelines developed and adopted pursuant to Section 65040.2 and the date of the last revision to the general plan.

(G) A listing of sites rezoned to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory required by paragraph (1) of subdivision (c) of Section 65583 and Section 65584.09. The listing of sites shall also include any additional sites that may have been required to be identified by Section 65863.

(H) The number of net new units of housing, including both rental housing and for-sale housing and any units that the County of Napa or the City of Napa may report pursuant to an agreement entered into pursuant to Section 65584.08, that have been issued a completed entitlement, a building permit, or a certificate of occupancy, thus far in the housing element cycle, and the income category, by area median income category, that each unit of housing satisfies. That production report shall, for each income category described in this subparagraph, distinguish between the number of rental housing units and the number of for-sale units that satisfy each income category. The production report shall include, for each entitlement, building permit, or certificate of occupancy, a unique site identifier that must include the assessor's parcel number, but may include street address, or other identifiers.

(I) The number of applications submitted pursuant to subdivision (a) of Section 65913.4, the location and the total number of developments approved pursuant to subdivision (c) of Section 65913.4, the total number of building permits issued pursuant to subdivision (c) of Section 65913.4, the total number of units including both rental housing and for-sale housing by area median income category constructed using the process provided for in subdivision (c) of Section 65913.4.

(J) If the city or county has received funding pursuant to the Local Government Planning Support Grants Program (Chapter 3.1 (commencing with Section 50515) of Part 2 of Division 31 of the Health and Safety Code), the information required pursuant to subdivision (a) of Section 50515.04 of the Health and Safety Code.

(K) The progress of the city or county in adopting or amending its general plan or local open-space element in compliance with its obligations to consult with California Native American tribes, and to identify and protect, preserve, and mitigate impacts to places, features, and objects described in Sections 5097.9 and 5097.993 of the Public Resources Code, pursuant to Chapter 905 of the Statutes of 2004.

(L) The following information with respect to density bonuses granted in accordance with Section 65915:

(i) The number of density bonus applications received by the city or county.

(ii) The number of density bonus applications approved by the city or county.

(iii) Data from a sample of projects, selected by the planning agency, approved to receive a density bonus from the city or county, including, but not limited to, the percentage of density bonus received, the percentage of affordable units in the project, the number of other incentives or concessions granted to the project, and any waiver or reduction of parking standards for the project.

(M) The Department of Housing and Community Development shall post a report submitted pursuant to this paragraph on its internet website within a reasonable time of receiving the report.

(b) If a court finds, upon a motion to that effect, that a city, county, or city and county failed to submit, within 60 days of the deadline established in this section, the housing element portion of the report required pursuant to subparagraph (B) of paragraph (2) of subdivision (a) that substantially complies with the requirements of this section, the court shall issue an order or judgment compelling compliance with this section within 60 days. If the city, county, or city and county fails to comply with the court's order within 60 days, the plaintiff or petitioner may move for sanctions, and the court may, upon that motion, grant appropriate sanctions. The court shall retain jurisdiction to ensure that its order or judgment is carried out. If the court determines that its order or judgment is not carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled. This subdivision applies to proceedings initiated on or after the first day of October following the adoption of forms and definitions by the Department of Housing and Community Development pursuant to paragraph (2) of subdivision (a), but no sooner than six months following that adoption.

SEC. 1.5. Section 65400 of the Government Code is amended to read:

65400. (a) After the legislative body has adopted all or part of a general plan, the planning agency shall do both of the following:

(1) Investigate and make recommendations to the legislative body regarding reasonable and practical means for implementing the general plan or element of the general plan, so that it will serve as an effective guide for orderly growth and development, preservation and conservation of open-space land and natural resources, and the efficient expenditure of public funds relating to the subjects addressed in the general plan.

(2) Provide by April 1 of each year an annual report to the legislative body, the Office of Planning and Research, and the Department of Housing and Community Development that includes all of the following:

(A) The status of the plan and progress in its implementation.

(B) (i) The progress in meeting its share of regional housing needs determined pursuant to Section 65584 and local efforts to remove governmental constraints to the maintenance, improvement, and development of housing pursuant to paragraph (3) of subdivision (c) of Section 65583.

(ii) The housing element portion of the annual report, as required by this paragraph, shall be prepared through the use of standards, forms, and definitions adopted by the Department of Housing and Community Development. The department may review, adopt, amend, and repeal the standards, forms, or definitions, to implement this article. Any standards, forms, or definitions adopted to implement this article shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2. Before and after adoption of the forms, the housing element portion of the annual report shall include a section that describes the actions taken by the local government towards completion of the programs and status of the local government's compliance with the deadlines in its housing element. That report shall be considered at an annual public

meeting before the legislative body where members of the public shall be allowed to provide oral testimony and written comments.

(iii) The report may include the number of units that have been completed pursuant to subdivision (c) of Section 65583.1. For purposes of this paragraph, committed assistance may be executed throughout the planning period, and the program under paragraph (1) of subdivision (c) of Section 65583.1 shall not be required. The report shall document how the units meet the standards set forth in that subdivision.

(iv) The planning agency shall include the number of units in a student housing development for lower income students for which the developer of the student housing development was granted a density bonus pursuant to subparagraph (F) of paragraph (1) of subdivision (b) of Section 65915.

(C) The number of housing development applications received in the prior year.

(D) The number of units included in all development applications in the prior year.

(E) The number of units approved and disapproved in the prior year.

(F) The degree to which its approved general plan complies with the guidelines developed and adopted pursuant to Section 65040.2 and the date of the last revision to the general plan.

(G) A listing of sites rezoned to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory required by paragraph (1) of subdivision (c) of Section 65583 and Section 65584.09. The listing of sites shall also include any additional sites that may have been required to be identified by Section 65863.

(H) The number of net new units of housing, including both rental housing and for-sale housing and any units that the County of Napa or the City of Napa may report pursuant to an agreement entered into pursuant to Section 65584.08, that have been issued a completed entitlement, a building permit, or a certificate of occupancy, thus far in the housing element cycle, and the income category, by area median income category, that each unit of housing satisfies. That production report shall, for each income category described in this subparagraph, distinguish between the number of rental housing units and the number of for-sale units that satisfy each income category. The production report shall include, for each entitlement, building permit, or certificate of occupancy, a unique site identifier that must include the assessor's parcel number, but may include street address, or other identifiers.

(I) The number of applications submitted pursuant to subdivision (a) of Section 65913.4, the location and the total number of developments approved pursuant to subdivision (b) of Section 65913.4, the total number of building permits issued pursuant to subdivision (b) of Section 65913.4, the total number of units including both rental housing and for-sale housing by area median income category constructed using the process provided for in subdivision (b) of Section 65913.4.

(J) If the city or county has received funding pursuant to the Local Government Planning Support Grants Program (Chapter 3.1 (commencing with Section 50515) of Part 2 of Division 31 of the Health and Safety Code), the information required pursuant to subdivision (a) of Section 50515.04 of the Health and Safety Code.

(K) The following information with respect to density bonuses granted in accordance with Section 65915:

(i) The number of density bonus applications received by the city or county.

(ii) The number of density bonus applications approved by the city or county.

(iii) Data from a sample of projects, selected by the planning agency, approved to receive a density bonus from the city or county, including, but not limited to, the percentage of density bonus received, the percentage of affordable units in the project, the number of other incentives or concessions granted to the project, and any waiver or reduction of parking standards for the project.

(b) If a court finds, upon a motion to that effect, that a city, county, or city and county failed to submit, within 60 days of the deadline established in this section, the housing element portion of the report required pursuant to subparagraph (B) of paragraph (2) of subdivision (a) that substantially complies with the requirements of this section, the court shall issue an order or judgment compelling compliance with this section within 60 days. If the city, county, or city and county fails to comply with the court's order within 60 days, the plaintiff or petitioner may move for sanctions, and the court may, upon that motion, grant appropriate sanctions. The court shall retain jurisdiction to ensure that its order or judgment is carried out. If the court determines that its order or judgment is not carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled. This subdivision applies to proceedings initiated on or after the first day of October following the adoption of forms and definitions by the Department of Housing and Community Development pursuant to paragraph (2) of subdivision (a), but no sooner than six months following that adoption.

(c) The Department of Housing and Community Development shall post a report submitted pursuant to this section on its internet website within a reasonable time of receiving the report.

SEC. 1.7. Section 65400 of the Government Code is amended to read:

65400. (a) After the legislative body has adopted all or part of a general plan, the planning agency shall do both of the following:

(1) Investigate and make recommendations to the legislative body regarding reasonable and practical means for implementing the general plan or element of the general plan, so that it will serve as an effective guide for orderly growth and development, preservation and conservation of open-space land and natural resources, and the efficient expenditure of public funds relating to the subjects addressed in the general plan.

(2) Provide by April 1 of each year an annual report to the legislative body, the Office of Planning and Research, and the Department of Housing and Community Development that includes all of the following:

(A) The status of the plan and progress in its implementation.

(B) (i) The progress in meeting its share of regional housing needs determined pursuant to Section 65584 and local efforts to remove governmental constraints to the maintenance, improvement, and development of housing pursuant to paragraph (3) of subdivision (c) of Section 65583.

(ii) The housing element portion of the annual report, as required by this paragraph, shall be prepared through the use of standards, forms, and definitions adopted by the Department of Housing and Community Development. The department may review, adopt, amend, and repeal the standards, forms, or definitions, to implement this article. Any standards, forms, or definitions adopted to implement this article shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2. Before and after adoption of the forms, the housing element portion of the annual report shall include a section that describes the actions taken by the local government towards completion of the programs and status of the local government's compliance with the deadlines in its housing element. That report shall be considered at an annual public meeting before the legislative body where members of the public shall be allowed to provide oral testimony and written comments.

(iii) The report may include the number of units that have been completed pursuant to subdivision (c) of Section 65583.1. For purposes of this paragraph, committed assistance may be executed throughout the planning period, and the program under paragraph (1) of subdivision (c) of Section 65583.1 shall not be required. The report shall document how the units meet the standards set forth in that subdivision.

(iv) The planning agency shall include the number of units in a student housing development for lower income students for which the developer of the student housing development was granted a density bonus pursuant to subparagraph (F) of paragraph (1) of subdivision (b) of Section 65915.

- (C) The number of housing development applications received in the prior year.
- (D) The number of units included in all development applications in the prior year.
- (E) The number of units approved and disapproved in the prior year.
- (F) The degree to which its approved general plan complies with the guidelines developed and adopted pursuant to Section 65040.2 and the date of the last revision to the general plan.
- (G) A listing of sites rezoned to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory required by paragraph (1) of subdivision (c) of Section 65583 and Section 65584.09. The listing of sites shall also include any additional sites that may have been required to be identified by Section 65863.
- (H) The number of net new units of housing, including both rental housing and for-sale housing and any units that the County of Napa or the City of Napa may report pursuant to an agreement entered into pursuant to Section 65584.08, that have been issued a completed entitlement, a building permit, or a certificate of occupancy, thus far in the housing element cycle, and the income category, by area median income category, that each unit of housing satisfies. That production report shall, for each income category described in this subparagraph, distinguish between the number of rental housing units and the number of for-sale units that satisfy each income category. The production report shall include, for each entitlement, building permit, or certificate of occupancy, a unique site identifier that must include the assessor's parcel number, but may include street address, or other identifiers.
- (I) The number of applications submitted pursuant to subdivision (a) of Section 65913.4, the location and the total number of developments approved pursuant to subdivision (c) of Section 65913.4, the total number of building permits issued pursuant to subdivision (c) of Section 65913.4, the total number of units including both rental housing and for-sale housing by area median income category constructed using the process provided for in subdivision (c) of Section 65913.4.
- (J) If the city or county has received funding pursuant to the Local Government Planning Support Grants Program (Chapter 3.1 (commencing with Section 50515) of Part 2 of Division 31 of the Health and Safety Code), the information required pursuant to subdivision (a) of Section 50515.04 of the Health and Safety Code.
- (K) The progress of the city or county in adopting or amending its general plan or local open-space element in compliance with its obligations to consult with California Native American tribes, and to identify and protect, preserve, and mitigate impacts to places, features, and objects described in Sections 5097.9 and 5097.993 of the Public Resources Code, pursuant to Chapter 905 of the Statutes of 2004.
- (L) The following information with respect to density bonuses granted in accordance with Section 65915:
- (i) The number of density bonus applications received by the city or county.
 - (ii) The number of density bonus applications approved by the city or county.
 - (iii) Data from a sample of projects, selected by the planning agency, approved to receive a density bonus from the city or county, including, but not limited to, the percentage of density bonus received, the percentage of affordable units in the project, the number of other incentives or concessions granted to the project, and any waiver or reduction of parking standards for the project.
- (b) If a court finds, upon a motion to that effect, that a city, county, or city and county failed to submit, within 60 days of the deadline established in this section, the housing element portion of the report required pursuant to subparagraph (B) of paragraph (2) of subdivision (a) that substantially complies with the requirements of this section, the court shall issue an order or judgment compelling compliance with this section within 60 days. If the city, county, or city and county fails to comply with the court's order within 60 days, the plaintiff or petitioner

may move for sanctions, and the court may, upon that motion, grant appropriate sanctions. The court shall retain jurisdiction to ensure that its order or judgment is carried out. If the court determines that its order or judgment is not carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled. This subdivision applies to proceedings initiated on or after the first day of October following the adoption of forms and definitions by the Department of Housing and Community Development pursuant to paragraph (2) of subdivision (a), but no sooner than six months following that adoption.

(c) The Department of Housing and Community Development shall post a report submitted pursuant to this section on its internet website within a reasonable time of receiving the report.

SEC. 2. Section 65915 of the Government Code is amended to read:

65915. (a) (1) When an applicant seeks a density bonus for a housing development within, or for the donation of land for housing within, the jurisdiction of a city, county, or city and county, that local government shall comply with this section. A city, county, or city and county shall adopt an ordinance that specifies how compliance with this section will be implemented. Except as otherwise provided in subdivision (s), failure to adopt an ordinance shall not relieve a city, county, or city and county from complying with this section.

(2) A local government shall not condition the submission, review, or approval of an application pursuant to this chapter on the preparation of an additional report or study that is not otherwise required by state law, including this section. This subdivision does not prohibit a local government from requiring an applicant to provide reasonable documentation to establish eligibility for a requested density bonus, incentives or concessions, as described in subdivision (d), waivers or reductions of development standards, as described in subdivision (e), and parking ratios, as described in subdivision (p).

(3) In order to provide for the expeditious processing of a density bonus application, the local government shall do all of the following:

(A) Adopt procedures and timelines for processing a density bonus application.

(B) Provide a list of all documents and information required to be submitted with the density bonus application in order for the density bonus application to be deemed complete. This list shall be consistent with this chapter.

(C) Notify the applicant for a density bonus whether the application is complete in a manner consistent with the timelines specified in Section 65943.

(D) (i) If the local government notifies the applicant that the application is deemed complete pursuant to subparagraph (C), provide the applicant with a determination as to the following matters:

(I) The amount of density bonus, calculated pursuant to subdivision (f), for which the applicant is eligible.

(II) If the applicant requests a parking ratio pursuant to subdivision (p), the parking ratio for which the applicant is eligible.

(III) If the applicant requests incentives or concessions pursuant to subdivision (d) or waivers or reductions of development standards pursuant to subdivision (e), whether the applicant has provided adequate information for the local government to make a determination as to those incentives, concessions, or waivers or reductions of development standards.

(ii) Any determination required by this subparagraph shall be based on the development project at the time the application is deemed complete. The local government shall adjust the amount of density bonus and parking ratios awarded pursuant to this section based on any changes to the project during the course of development.

(b) (1) A city, county, or city and county shall grant one density bonus, the amount of which shall be as specified in subdivision (f), and, if requested by the applicant and consistent with the applicable requirements of this section, incentives or concessions, as described in subdivision (d), waivers or reductions of development standards, as described in subdivision (e), and parking ratios, as described in subdivision (p), when an applicant for a housing development seeks and agrees to construct a housing development, excluding any units permitted by the density bonus awarded pursuant to this section, that will contain at least any one of the following:

(A) Ten percent of the total units of a housing development for lower income households, as defined in Section 50079.5 of the Health and Safety Code.

(B) Five percent of the total units of a housing development for very low income households, as defined in Section 50105 of the Health and Safety Code.

(C) A senior citizen housing development, as defined in Sections 51.3 and 51.12 of the Civil Code, or a mobilehome park that limits residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the Civil Code.

(D) Ten percent of the total dwelling units in a common interest development, as defined in Section 4100 of the Civil Code, for persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code, provided that all units in the development are offered to the public for purchase.

(E) Ten percent of the total units of a housing development for transitional foster youth, as defined in Section 66025.9 of the Education Code, disabled veterans, as defined in Section 18541, or homeless persons, as defined in the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11301 et seq.). The units described in this subparagraph shall be subject to a recorded affordability restriction of 55 years and shall be provided at the same affordability level as very low income units.

(F) (i) Twenty percent of the total units for lower income students in a student housing development that meets the following requirements:

(I) All units in the student housing development will be used exclusively for undergraduate, graduate, or professional students enrolled full time at an institution of higher education accredited by the Western Association of Schools and Colleges or the Accrediting Commission for Community and Junior Colleges. In order to be eligible under this subclause, the developer shall, as a condition of receiving a certificate of occupancy, provide evidence to the city, county, or city and county that the developer has entered into an operating agreement or master lease with one or more institutions of higher education for the institution or institutions to occupy all units of the student housing development with students from that institution or institutions. An operating agreement or master lease entered into pursuant to this subclause is not violated or breached if, in any subsequent year, there are not sufficient students enrolled in an institution of higher education to fill all units in the student housing development.

(II) The applicable 20-percent units will be used for lower income students. For purposes of this clause, "lower income students" means students who have a household income and asset level that does not exceed the level for Cal Grant A or Cal Grant B award recipients as set forth in paragraph (1) of subdivision (k) of Section 69432.7 of the Education Code. The eligibility of a student under this clause shall be verified by an affidavit, award letter, or letter of eligibility provided by the institution of higher education that the student is enrolled in, as described in subclause (I), or by the California Student Aid Commission that the student receives or is eligible for financial aid, including an institutional grant or fee waiver, from the college or university, the California Student Aid Commission, or the federal government shall be sufficient to satisfy this subclause.

(III) The rent provided in the applicable units of the development for lower income students shall be calculated at 30 percent of 65 percent of the area median income for a single-room occupancy unit type.

(IV) The development will provide priority for the applicable affordable units for lower income students experiencing homelessness. A homeless service provider, as defined in paragraph (3) of subdivision (e) of

Section 103577 of the Health and Safety Code, or institution of higher education that has knowledge of a person's homeless status may verify a person's status as homeless for purposes of this subclause.

(ii) For purposes of calculating a density bonus granted pursuant to this subparagraph, the term "unit" as used in this section means one rental bed and its pro rata share of associated common area facilities. The units described in this subparagraph shall be subject to a recorded affordability restriction of 55 years.

(G) One hundred percent of all units in the development, including total units and density bonus units, but exclusive of a manager's unit or units, are for lower income households, as defined by Section 50079.5 of the Health and Safety Code, except that up to 20 percent of the units in the development, including total units and density bonus units, may be for moderate-income households, as defined in Section 50053 of the Health and Safety Code.

(2) For purposes of calculating the amount of the density bonus pursuant to subdivision (f), an applicant who requests a density bonus pursuant to this subdivision shall elect whether the bonus shall be awarded on the basis of subparagraph (A), (B), (C), (D), (E), (F), or (G) of paragraph (1).

(3) For the purposes of this section, "total units," "total dwelling units," or "total rental beds" does not include units added by a density bonus awarded pursuant to this section or any local law granting a greater density bonus.

(c) (1) (A) An applicant shall agree to, and the city, county, or city and county shall ensure, the continued affordability of all very low and low-income rental units that qualified the applicant for the award of the density bonus for 55 years or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program.

(B) (i) Except as otherwise provided in clause (ii), rents for the lower income density bonus units shall be set at an affordable rent, as defined in Section 50053 of the Health and Safety Code.

(ii) For housing developments meeting the criteria of subparagraph (G) of paragraph (1) of subdivision (b), rents for all units in the development, including both base density and density bonus units, shall be as follows:

(I) The rent for at least 20 percent of the units in the development shall be set at an affordable rent, as defined in Section 50053 of the Health and Safety Code.

(II) The rent for the remaining units in the development shall be set at an amount consistent with the maximum rent levels for a housing development that receives an allocation of state or federal low-income housing tax credits from the California Tax Credit Allocation Committee.

(2) An applicant shall agree to, and the city, county, or city and county shall ensure that, the initial occupant of all for-sale units that qualified the applicant for the award of the density bonus are persons and families of very low, low, or moderate income, as required, and that the units are offered at an affordable housing cost, as that cost is defined in Section 50052.5 of the Health and Safety Code. The local government shall enforce an equity sharing agreement, unless it is in conflict with the requirements of another public funding source or law. The following apply to the equity sharing agreement:

(A) Upon resale, the seller of the unit shall retain the value of any improvements, the downpayment, and the seller's proportionate share of appreciation. The local government shall recapture any initial subsidy, as defined in subparagraph (B), and its proportionate share of appreciation, as defined in subparagraph (C), which amount shall be used within five years for any of the purposes described in subdivision (e) of Section 33334.2 of the Health and Safety Code that promote home ownership.

(B) For purposes of this subdivision, the local government'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 to the moderate-income household, plus the

amount of any downpayment 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.

(C) For purposes of this subdivision, the local government's proportionate share of appreciation shall be equal to the ratio of the local government's initial subsidy to the fair market value of the home at the time of initial sale.

(3) (A) An applicant shall be ineligible for a density bonus or any other incentives or concessions under this section if the housing development is proposed on any property that includes a parcel or parcels on which rental dwelling units are or, if the dwelling units have been vacated or demolished in the five-year period preceding the application, have been subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of lower or very low income; subject to any other form of rent or price control through a public entity's valid exercise of its police power; or occupied by lower or very low income households, unless the proposed housing development replaces those units, and either of the following applies:

(i) The proposed housing development, inclusive of the units replaced pursuant to this paragraph, contains affordable units at the percentages set forth in subdivision (b).

(ii) Each unit in the development, exclusive of a manager's unit or units, is affordable to, and occupied by, either a lower or very low income household.

(B) For the purposes of this paragraph, "replace" shall mean either of the following:

(i) If any dwelling units described in subparagraph (A) are occupied on the date of application, the proposed housing development shall provide at least the same number of units of equivalent size to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those households in occupancy. If the income category of the household in occupancy is not known, it shall be rebuttably presumed that lower income renter households occupied these units in the same proportion of lower income renter households to all renter households within the jurisdiction, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database. For unoccupied dwelling units described in subparagraph (A) in a development with occupied units, the proposed housing development shall provide units of equivalent size to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as the last household in occupancy. If the income category of the last household in occupancy is not known, it shall be rebuttably presumed that lower income renter households occupied these units in the same proportion of lower income renter households to all renter households within the jurisdiction, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database. All replacement calculations resulting in fractional units shall be rounded up to the next whole number. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years. If the proposed development is for-sale units, the units replaced shall be subject to paragraph (2).

(ii) If all dwelling units described in subparagraph (A) have been vacated or demolished within the five-year period preceding the application, the proposed housing development shall provide at least the same number of units of equivalent size as existed at the highpoint of those units in the five-year period preceding the application to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those persons and families in occupancy at that time, if known. If the incomes of the persons and families in occupancy at the highpoint is not known, it shall be rebuttably presumed that low-income and very low income renter households occupied these units in the same proportion of low-income and very low income renter households to all renter households within the jurisdiction, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database. All replacement calculations resulting in fractional units shall be rounded up to the next whole number. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years. If the proposed development is for-sale units, the units replaced shall be subject to paragraph (2).

(C) Notwithstanding subparagraph (B), for any dwelling unit described in subparagraph (A) that is or was, within the five-year period preceding the application, subject to a form of rent or price control through a local government's valid exercise of its police power and that is or was occupied by persons or families above lower income, the city, county, or city and county may do either of the following:

(i) Require that the replacement units be made available at affordable rent or affordable housing cost to, and occupied by, low-income persons or families. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years. If the proposed development is for-sale units, the units replaced shall be subject to paragraph (2).

(ii) Require that the units be replaced in compliance with the jurisdiction's rent or price control ordinance, provided that each unit described in subparagraph (A) is replaced. Unless otherwise required by the jurisdiction's rent or price control ordinance, these units shall not be subject to a recorded affordability restriction.

(D) For purposes of this paragraph, "equivalent size" means that the replacement units contain at least the same total number of bedrooms as the units being replaced.

(E) Subparagraph (A) does not apply to an applicant seeking a density bonus for a proposed housing development if the applicant's application was submitted to, or processed by, a city, county, or city and county before January 1, 2015.

(d) (1) An applicant for a density bonus pursuant to subdivision (b) may submit to a city, county, or city and county a proposal for the specific incentives or concessions that the applicant requests pursuant to this section, and may request a meeting with the city, county, or city and county. The city, county, or city and county shall grant the concession or incentive requested by the applicant unless the city, county, or city and county makes a written finding, based upon substantial evidence, of any of the following:

(A) The concession or incentive does not result in identifiable and actual cost reductions, consistent with subdivision (k), to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).

(B) The concession or incentive would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment or on any real 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-income and moderate-income households.

(C) The concession or incentive would be contrary to state or federal law.

(2) The applicant shall receive the following number of incentives or concessions:

(A) One incentive or concession for projects that include at least 10 percent of the total units for lower 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.

(B) Two incentives or concessions for projects that include at least 17 percent of the total units for lower 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.

(C) Three incentives or concessions for projects that include at least 24 percent of the total units for lower 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.

(D) Four incentives or concessions for projects meeting the criteria of subparagraph (G) of paragraph (1) of subdivision (b). If the project is located within one-half mile of a major transit stop, the applicant shall also receive a height increase of up to three additional stories, or 33 feet.

(3) The applicant may initiate judicial proceedings if the city, county, or city and county refuses to grant a requested density bonus, incentive, or concession. If a court finds that the refusal to grant a requested density bonus, incentive, or concession is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit. Nothing in this subdivision shall be interpreted to require a local government to grant an incentive or concession that has a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Nothing in this subdivision shall be interpreted to require a local government to grant an incentive or concession that would have an adverse impact on any real property that is listed in the California Register of Historical Resources. The city, county, or city and county shall establish procedures for carrying out this section that shall include legislative body approval of the means of compliance with this section.

(4) The city, county, or city and county shall bear the burden of proof for the denial of a requested concession or incentive.

(e) (1) In no case may a city, county, or city and county apply any development standard that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted by this section. Subject to paragraph (3), an applicant may submit to a city, county, or city and county a proposal for the waiver or reduction of development standards that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted under this section, and may request a meeting with the city, county, or city and county. If a court finds that the refusal to grant a waiver or reduction of development standards is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit. Nothing in this subdivision shall be interpreted to require a local government to waive or reduce development standards if the waiver or reduction would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Nothing in this subdivision shall be interpreted to require a local government to waive or reduce development standards that would have an adverse impact on any real property that is listed in the California Register of Historical Resources, or to grant any waiver or reduction that would be contrary to state or federal law.

(2) A proposal for the waiver or reduction of development standards pursuant to this subdivision shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to subdivision (d).

(3) A housing development that receives a waiver from any maximum controls on density pursuant to clause (ii) of subparagraph (D) of paragraph (3) of subdivision (f) shall only be eligible for a waiver or reduction of development standards as provided in subparagraph (D) of paragraph (2) of subdivision (d) and clause (ii) of subparagraph (D) of paragraph (3) of subdivision (f), unless the city, county, or city and county agrees to additional waivers or reductions of development standards.

(f) For the purposes of this chapter, "density bonus" means a density increase over the otherwise maximum allowable gross residential density as of the date of application by the applicant to the city, county, or city and county, or, if elected by the applicant, a lesser percentage of density increase, including, but not limited to, no increase in density. The amount of density increase to which the applicant is entitled shall vary according to the amount by which the percentage of affordable housing units exceeds the percentage established in subdivision (b).

(1) For housing developments meeting the criteria of subparagraph (A) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Low-Income Units

Percentage Density
Bonus

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
21	38.75
22	42.5
23	46.25
24	50

(2) For housing developments meeting the criteria of subparagraph (B) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Very Low Income Units

Percentage Density Bonus

5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35
12	38.75
13	42.5
14	46.25
15	50

(3) (A) For housing developments meeting the criteria of subparagraph (C) of paragraph (1) of subdivision (b), the density bonus shall be 20 percent of the number of senior housing units.

(B) For housing developments meeting the criteria of subparagraph (E) of paragraph (1) of subdivision (b), the density bonus shall be 20 percent of the number of the type of units giving rise to a density bonus under that subparagraph.

(C) For housing developments meeting the criteria of subparagraph (F) of paragraph (1) of subdivision (b), the density bonus shall be 35 percent of the student housing units.

(D) For housing developments meeting the criteria of subparagraph (G) of paragraph (1) of subdivision (b), the following shall apply:

(i) Except as otherwise provided in clause (ii), the density bonus shall be 80 percent of the number of units for lower income households.

(ii) If the housing development is located within one-half mile of a major transit stop, the city, county, or city and county shall not impose any maximum controls on density.

(4) For housing developments meeting the criteria of subparagraph (D) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Moderate-Income Units	Percentage Density Bonus
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
41	38.75
42	42.5
43	46.25

(5) All density calculations resulting in fractional units shall be rounded up to the next whole number. The granting of a density bonus shall not require, or be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary approval.

(g) (1) When an applicant for a tentative subdivision map, parcel map, or other residential development approval donates land to a city, county, or city and county in accordance with this subdivision, the applicant shall be entitled to a 15-percent increase above the otherwise maximum allowable residential density for the entire development, as follows:

Percentage Very Low Income	Percentage Density Bonus
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

(2) This increase shall be in addition to any increase in density mandated by subdivision (b), up to a maximum combined mandated density increase of 35 percent if an applicant seeks an increase pursuant to both this subdivision and subdivision (b). All density calculations resulting in fractional units shall be rounded up to the next whole number. Nothing in this subdivision shall be construed to enlarge or diminish the authority of a city, county, or city and county to require a developer to donate land as a condition of development. An applicant shall be eligible for the increased density bonus described in this subdivision if all of the following conditions are met:

(A) 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.

(B) 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 not less than 10 percent of the number of residential units of the proposed development.

(C) The transferred land is 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 with appropriate development standards for

development at the density described in paragraph (3) of subdivision (c) of Section 65583.2, and is or will be served by adequate public facilities and infrastructure.

(D) The transferred land shall 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, not later than the date of approval of the final subdivision map, parcel map, or residential development application, except that the local government may subject the proposed development to subsequent design review to the extent authorized by subdivision (i) of Section 65583.2 if the design is not reviewed by the local government before the time of transfer.

(E) The transferred land and the affordable units shall be subject to a deed restriction ensuring continued affordability of the units consistent with paragraphs (1) and (2) of subdivision (c), which shall be recorded on the property at the time of the transfer.

(F) The land is transferred to the local agency or to a housing developer approved by the local agency. The local agency may require the applicant to identify and transfer the land to the developer.

(G) The transferred land shall be within the boundary of the proposed development or, if the local agency agrees, within one-quarter mile of the boundary of the proposed development.

(H) 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.

(h) (1) When an applicant proposes to construct a housing development that conforms to the requirements of subdivision (b) and includes a childcare facility that will be located on the premises of, as part of, or adjacent to, the project, the city, county, or city and county shall grant either of the following:

(A) 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 childcare facility.

(B) An additional concession or incentive that contributes significantly to the economic feasibility of the construction of the childcare facility.

(2) The city, county, or city and county shall require, as a condition of approving the housing development, that the following occur:

(A) The childcare 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 pursuant to subdivision (c).

(B) Of the children who attend the childcare facility, 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 income households, lower income households, or families of moderate income pursuant to subdivision (b).

(3) Notwithstanding any requirement of this subdivision, a city, county, or city and county shall not be required to provide a density bonus or concession for a childcare facility if it finds, based upon substantial evidence, that the community has adequate childcare facilities.

(4) "Childcare facility," as used in this section, means a child daycare facility other than a family daycare home, including, but not limited to, infant centers, preschools, extended daycare facilities, and schoolage childcare centers.

(i) "Housing development," as used in this section, means a development project for five or more residential units, including mixed-use developments. For the purposes of this section, "housing development" also includes a subdivision or common interest development, as defined in Section 4100 of the Civil Code, approved by a city,

county, or city and county and consists of residential units or unimproved residential lots and either a project to substantially rehabilitate and convert an existing commercial building to residential use or the substantial rehabilitation of an existing multifamily dwelling, as defined in subdivision (d) of Section 65863.4, where the result of the rehabilitation would be a net increase in available residential units. For the purpose of calculating a density bonus, the residential units shall be on contiguous sites that are the subject of one development application, but do not have to be based upon individual subdivision maps or parcels. The density bonus shall be permitted in geographic areas of the housing development other than the areas where the units for the lower income households are located.

(j) (1) The granting of a concession or incentive shall not require or be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, study, or other discretionary approval. For purposes of this subdivision, “study” does not include reasonable documentation to establish eligibility for the concession or incentive or to demonstrate that the incentive or concession meets the definition set forth in subdivision (k). This provision is declaratory of existing law.

(2) Except as provided in subdivisions (d) and (e), the granting of a density bonus shall not require or be interpreted to require the waiver of a local ordinance or provisions of a local ordinance unrelated to development standards.

(k) For the purposes of this chapter, concession or incentive means any of the following:

(1) A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, including, but not limited to, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required that results in identifiable and actual cost reductions, to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).

(2) 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.

(3) Other regulatory incentives or concessions proposed by the developer or the city, county, or city and county that result in identifiable and actual cost reductions to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).

(l) Subdivision (k) does not limit or require the provision of direct financial incentives for the housing development, including the provision of publicly owned land, by the city, county, or city and county, or the waiver of fees or dedication requirements.

(m) This section does not supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code). Any density bonus, concessions, incentives, waivers or reductions of development standards, and parking ratios to which the applicant is entitled under this section shall be permitted in a manner that is consistent with this section and Division 20 (commencing with Section 30000) of the Public Resources Code.

(n) If permitted by local ordinance, nothing in this section shall be construed to prohibit a city, county, or city and county from granting a density bonus greater than what is described in this section for a development that meets the requirements of this section or from granting a proportionately lower density bonus than what is required by this section for developments that do not meet the requirements of this section.

(o) For purposes of this section, the following definitions shall apply:

(1) “Development standard” includes a site or construction condition, including, but not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open-space requirement, or a parking ratio that applies to a residential development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation.

(2) “Located within one-half mile of a major transit stop” means that any point on a proposed development, for which an applicant seeks a density bonus, other incentives or concessions, waivers or reductions of development standards, or a vehicular parking ratio pursuant to this section, is within one-half mile of any point on the property on which a major transit stop is located, including any parking lot owned by the transit authority or other local agency operating the major transit stop.

(3) “Major transit stop” has the same meaning as defined in subdivision (b) of Section 21155 of the Public Resources Code.

(4) “Maximum allowable residential density” means the density allowed under the zoning ordinance and land use element of the general plan, or, if a range of density is permitted, means the maximum allowable density for the specific zoning range and land use element of the general plan applicable to the project. If the density allowed under the zoning ordinance is inconsistent with the density allowed under the land use element of the general plan, the general plan density shall prevail.

(p) (1) Except as provided in paragraphs (2), (3), and (4), upon the request of the developer, a city, county, or city and county shall not require a vehicular parking ratio, inclusive of parking for persons with a disability and guests, of a development meeting the criteria of subdivisions (b) and (c), that exceeds the following ratios:

(A) Zero to one bedroom: one onsite parking space.

(B) Two to three bedrooms: one and one-half onsite parking spaces.

(C) Four and more bedrooms: two and one-half parking spaces.

(2) (A) Notwithstanding paragraph (1), if a development includes at least 20 percent low-income units for housing developments meeting the criteria of subparagraph (A) of paragraph (1) of subdivision (b) or at least 11 percent very low income units for housing developments meeting the criteria of subparagraph (B) of paragraph (1) of subdivision (b), is located within one-half mile of a major transit stop, and there is unobstructed access to the major transit stop from the development, then, upon the request of the developer, a city, county, or city and county shall not impose a vehicular parking ratio, inclusive of parking for persons with a disability and guests, that exceeds 0.5 spaces per unit.

(B) For purposes of this subdivision, a development shall have unobstructed access to a major transit stop if a resident is able to access the major transit stop without encountering natural or constructed impediments. For purposes of this subparagraph, “natural or constructed impediments” includes, but is not limited to, freeways, rivers, mountains, and bodies of water, but does not include residential structures, shopping centers, parking lots, or rails used for transit.

(3) Notwithstanding paragraph (1), if a development consists solely of rental units, exclusive of a manager’s unit or units, with an affordable housing cost to lower income families, as provided in Section 50052.5 of the Health and Safety Code, then, upon the request of the developer, a city, county, or city and county shall not impose vehicular parking standards if the development meets either of the following criteria:

(A) The development is located within one-half mile of a major transit stop and there is unobstructed access to the major transit stop from the development.

(B) The development is a for-rent housing development for individuals who are 62 years of age or older that complies with Sections 51.2 and 51.3 of the Civil Code and the development has either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.

(4) Notwithstanding paragraphs (1) and (8), if a development consists solely of rental units, exclusive of a manager's unit or units, with an affordable housing cost to lower income families, as provided in Section 50052.5 of the Health and Safety Code, and the development is either a special needs housing development, as defined in Section 51312 of the Health and Safety Code, or a supportive housing development, as defined in Section 50675.14 of the Health and Safety Code, then, upon the request of the developer, a city, county, or city and county shall not impose any minimum vehicular parking requirement. A development that is a special needs housing development shall have either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.

(5) 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 subdivision, a development may provide onsite parking through tandem parking or uncovered parking, but not through onstreet parking.

(6) This subdivision shall apply to a development that meets the requirements of subdivisions (b) and (c), but only at the request of the applicant. An applicant may request parking incentives or concessions beyond those provided in this subdivision pursuant to subdivision (d).

(7) This subdivision does not preclude a city, county, or city and county from reducing or eliminating a parking requirement for development projects of any type in any location.

(8) Notwithstanding paragraphs (2) and (3), if a city, county, city and county, or an independent consultant has conducted an areawide or jurisdictionwide parking study in the last seven years, then the city, county, or city and county may impose a higher vehicular parking ratio not to exceed the ratio described in paragraph (1), based upon substantial evidence found in the parking study, that includes, but is not limited to, an analysis of parking availability, differing levels of transit access, walkability access to transit services, the potential for shared parking, the effect of parking requirements on the cost of market-rate and subsidized developments, and the lower rates of car ownership for low-income and very low income individuals, including seniors and special needs individuals. The city, county, or city and county shall pay the costs of any new study. The city, county, or city and county shall make findings, based on a parking study completed in conformity with this paragraph, supporting the need for the higher parking ratio.

(9) A request pursuant to this subdivision shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to subdivision (d).

(q) Each component of any density calculation, including base density and bonus density, resulting in fractional units shall be separately rounded up to the next whole number. The Legislature finds and declares that this provision is declaratory of existing law.

(r) This chapter shall be interpreted liberally in favor of producing the maximum number of total housing units.

(s) Notwithstanding any other law, if a city, including a charter city, county, or city and county has adopted an ordinance or a housing program, or both an ordinance and a housing program, that incentivizes the development of affordable housing that allows for density bonuses that exceed the density bonuses required by the version of this section effective through December 31, 2020, that city, county, or city and county is not required to amend or otherwise update its ordinance or corresponding affordable housing incentive program to comply with the amendments made to this section by the act adding this subdivision, and is exempt from complying with the incentive and concession calculation amendments made to this section by the act adding this subdivision as set forth in subdivision (d), particularly subparagraphs (C) and (D) of paragraph (2) of that subdivision, and the amendments made to the density tables under subdivision (f).

SEC. 2.5. Section 65915 of the Government Code is amended to read:

65915. (a) (1) When an applicant seeks a density bonus for a housing development within, or for the donation of land for housing within, the jurisdiction of a city, county, or city and county, that local government shall comply with this section. A city, county, or city and county shall adopt an ordinance that specifies how compliance with

this section will be implemented. Except as otherwise provided in subdivision (s), failure to adopt an ordinance shall not relieve a city, county, or city and county from complying with this section.

(2) A local government shall not condition the submission, review, or approval of an application pursuant to this chapter on the preparation of an additional report or study that is not otherwise required by state law, including this section. This subdivision does not prohibit a local government from requiring an applicant to provide reasonable documentation to establish eligibility for a requested density bonus, incentives or concessions, as described in subdivision (d), waivers or reductions of development standards, as described in subdivision (e), and parking ratios, as described in subdivision (p).

(3) In order to provide for the expeditious processing of a density bonus application, the local government shall do all of the following:

(A) Adopt procedures and timelines for processing a density bonus application.

(B) Provide a list of all documents and information required to be submitted with the density bonus application in order for the density bonus application to be deemed complete. This list shall be consistent with this chapter.

(C) Notify the applicant for a density bonus whether the application is complete in a manner consistent with the timelines specified in Section 65943.

(D) (i) If the local government notifies the applicant that the application is deemed complete pursuant to subparagraph (C), provide the applicant with a determination as to the following matters:

(I) The amount of density bonus, calculated pursuant to subdivision (f), for which the applicant is eligible.

(II) If the applicant requests a parking ratio pursuant to subdivision (p), the parking ratio for which the applicant is eligible.

(III) If the applicant requests incentives or concessions pursuant to subdivision (d) or waivers or reductions of development standards pursuant to subdivision (e), whether the applicant has provided adequate information for the local government to make a determination as to those incentives, concessions, or waivers or reductions of development standards.

(ii) Any determination required by this subparagraph shall be based on the development project at the time the application is deemed complete. The local government shall adjust the amount of density bonus and parking ratios awarded pursuant to this section based on any changes to the project during the course of development.

(b) (1) A city, county, or city and county shall grant one density bonus, the amount of which shall be as specified in subdivision (f), and, if requested by the applicant and consistent with the applicable requirements of this section, incentives or concessions, as described in subdivision (d), waivers or reductions of development standards, as described in subdivision (e), and parking ratios, as described in subdivision (p), if an applicant for a housing development seeks and agrees to construct a housing development, excluding any units permitted by the density bonus awarded pursuant to this section, that will contain at least any one of the following:

(A) Ten percent of the total units of a housing development for lower income households, as defined in Section 50079.5 of the Health and Safety Code.

(B) Five percent of the total units of a housing development for very low income households, as defined in Section 50105 of the Health and Safety Code.

(C) A senior citizen housing development, as defined in Sections 51.3 and 51.12 of the Civil Code, or a mobilehome park that limits residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the Civil Code.

(D) Ten percent of the total dwelling units of a housing development are sold to persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, provided that all units in the development are offered to the public for purchase.

(E) Ten percent of the total units of a housing development for transitional foster youth, as defined in Section 66025.9 of the Education Code, disabled veterans, as defined in Section 18541, or homeless persons, as defined in the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11301 et seq.). The units described in this subparagraph shall be subject to a recorded affordability restriction of 55 years and shall be provided at the same affordability level as very low income units.

(F) (i) Twenty percent of the total units for lower income students in a student housing development that meets the following requirements:

(I) All units in the student housing development will be used exclusively for undergraduate, graduate, or professional students enrolled full time at an institution of higher education accredited by the Western Association of Schools and Colleges or the Accrediting Commission for Community and Junior Colleges. In order to be eligible under this subclause, the developer shall, as a condition of receiving a certificate of occupancy, provide evidence to the city, county, or city and county that the developer has entered into an operating agreement or master lease with one or more institutions of higher education for the institution or institutions to occupy all units of the student housing development with students from that institution or institutions. An operating agreement or master lease entered into pursuant to this subclause is not violated or breached if, in any subsequent year, there are not sufficient students enrolled in an institution of higher education to fill all units in the student housing development.

(II) The applicable 20-percent units will be used for lower income students.

(III) The rent provided in the applicable units of the development for lower income students shall be calculated at 30 percent of 65 percent of the area median income for a single-room occupancy unit type.

(IV) The development will provide priority for the applicable affordable units for lower income students experiencing homelessness. A homeless service provider, as defined in paragraph (3) of subdivision (e) of Section 103577 of the Health and Safety Code, or institution of higher education that has knowledge of a person's homeless status may verify a person's status as homeless for purposes of this subclause.

(ii) For purposes of calculating a density bonus granted pursuant to this subparagraph, the term "unit" as used in this section means one rental bed and its pro rata share of associated common area facilities. The units described in this subparagraph shall be subject to a recorded affordability restriction of 55 years.

(G) One hundred percent of all units in the development, including total units and density bonus units, but exclusive of a manager's unit or units, are for lower income households, as defined by Section 50079.5 of the Health and Safety Code, except that up to 20 percent of the units in the development, including total units and density bonus units, may be for moderate-income households, as defined in Section 50053 of the Health and Safety Code.

(2) For purposes of calculating the amount of the density bonus pursuant to subdivision (f), an applicant who requests a density bonus pursuant to this subdivision shall elect whether the bonus shall be awarded on the basis of subparagraph (A), (B), (C), (D), (E), (F), or (G) of paragraph (1).

(c) (1) (A) An applicant shall agree to, and the city, county, or city and county shall ensure, the continued affordability of all very low and low-income rental units that qualified the applicant for the award of the density bonus for 55 years or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program.

(B) (i) Except as otherwise provided in clause (ii), rents for the lower income density bonus units shall be set at an affordable rent, as defined in Section 50053 of the Health and Safety Code.

(ii) For housing developments meeting the criteria of subparagraph (G) of paragraph (1) of subdivision (b), rents for all units in the development, including both base density and density bonus units, shall be as follows:

(I) The rent for at least 20 percent of the units in the development shall be set at an affordable rent, as defined in Section 50053 of the Health and Safety Code.

(II) The rent for the remaining units in the development shall be set at an amount consistent with the maximum rent levels for a housing development that receives an allocation of state or federal low-income housing tax credits from the California Tax Credit Allocation Committee.

(2) An applicant shall agree to, and the city, county, or city and county shall ensure that, the initial occupant of all for-sale units that qualified the applicant for the award of the density bonus are persons and families of very low, low, or moderate income, as required, and that the units are offered at an affordable housing cost, as that cost is defined in Section 50052.5 of the Health and Safety Code. The local government shall enforce an equity sharing agreement, unless it is in conflict with the requirements of another public funding source or law. The following apply to the equity sharing agreement:

(A) Upon resale, the seller of the unit shall retain the value of any improvements, the downpayment, and the seller's proportionate share of appreciation. The local government shall recapture any initial subsidy, as defined in subparagraph (B), and its proportionate share of appreciation, as defined in subparagraph (C), which amount shall be used within five years for any of the purposes described in subdivision (e) of Section 33334.2 of the Health and Safety Code that promote home ownership.

(B) For purposes of this subdivision, the local government'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 to the moderate-income household, plus the amount of any downpayment 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.

(C) For purposes of this subdivision, the local government's proportionate share of appreciation shall be equal to the ratio of the local government's initial subsidy to the fair market value of the home at the time of initial sale.

(3) (A) An applicant shall be ineligible for a density bonus or any other incentives or concessions under this section if the housing development is proposed on any property that includes a parcel or parcels on which rental dwelling units are or, if the dwelling units have been vacated or demolished in the five-year period preceding the application, have been subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of lower or very low income; subject to any other form of rent or price control through a public entity's valid exercise of its police power; or occupied by lower or very low income households, unless the proposed housing development replaces those units, and either of the following applies:

(i) The proposed housing development, inclusive of the units replaced pursuant to this paragraph, contains affordable units at the percentages set forth in subdivision (b).

(ii) Each unit in the development, exclusive of a manager's unit or units, is affordable to, and occupied by, either a lower or very low income household.

(B) For the purposes of this paragraph, "replace" shall mean either of the following:

(i) If any dwelling units described in subparagraph (A) are occupied on the date of application, the proposed housing development shall provide at least the same number of units of equivalent size to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those households in occupancy. If the income category of the household in occupancy is not known, it shall be rebuttably presumed that lower income renter households occupied these units in the same proportion of lower income renter households to all renter households within the jurisdiction, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database. For unoccupied dwelling units described in subparagraph (A) in a

development with occupied units, the proposed housing development shall provide units of equivalent size to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as the last household in occupancy. If the income category of the last household in occupancy is not known, it shall be rebuttably presumed that lower income renter households occupied these units in the same proportion of lower income renter households to all renter households within the jurisdiction, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database. All replacement calculations resulting in fractional units shall be rounded up to the next whole number. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years. If the proposed development is for-sale units, the units replaced shall be subject to paragraph (2).

(ii) If all dwelling units described in subparagraph (A) have been vacated or demolished within the five-year period preceding the application, the proposed housing development shall provide at least the same number of units of equivalent size as existed at the highpoint of those units in the five-year period preceding the application to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those persons and families in occupancy at that time, if known. If the incomes of the persons and families in occupancy at the highpoint is not known, it shall be rebuttably presumed that low-income and very low income renter households occupied these units in the same proportion of low-income and very low income renter households to all renter households within the jurisdiction, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database. All replacement calculations resulting in fractional units shall be rounded up to the next whole number. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years. If the proposed development is for-sale units, the units replaced shall be subject to paragraph (2).

(C) Notwithstanding subparagraph (B), for any dwelling unit described in subparagraph (A) that is or was, within the five-year period preceding the application, subject to a form of rent or price control through a local government's valid exercise of its police power and that is or was occupied by persons or families above lower income, the city, county, or city and county may do either of the following:

(i) Require that the replacement units be made available at affordable rent or affordable housing cost to, and occupied by, low-income persons or families. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years. If the proposed development is for-sale units, the units replaced shall be subject to paragraph (2).

(ii) Require that the units be replaced in compliance with the jurisdiction's rent or price control ordinance, provided that each unit described in subparagraph (A) is replaced. Unless otherwise required by the jurisdiction's rent or price control ordinance, these units shall not be subject to a recorded affordability restriction.

(D) For purposes of this paragraph, "equivalent size" means that the replacement units contain at least the same total number of bedrooms as the units being replaced.

(E) Subparagraph (A) does not apply to an applicant seeking a density bonus for a proposed housing development if the applicant's application was submitted to, or processed by, a city, county, or city and county before January 1, 2015.

(d) (1) An applicant for a density bonus pursuant to subdivision (b) may submit to a city, county, or city and county a proposal for the specific incentives or concessions that the applicant requests pursuant to this section, and may request a meeting with the city, county, or city and county. The city, county, or city and county shall grant the concession or incentive requested by the applicant unless the city, county, or city and county makes a written finding, based upon substantial evidence, of any of the following:

(A) The concession or incentive does not result in identifiable and actual cost reductions, consistent with subdivision (k), to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety

Code, or for rents for the targeted units to be set as specified in subdivision (c).

(B) The concession or incentive would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or on any real 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-income and moderate-income households.

(C) The concession or incentive would be contrary to state or federal law.

(2) The applicant shall receive the following number of incentives or concessions:

(A) One incentive or concession for projects that include at least 10 percent of the total units for lower 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 development in which the units are for sale.

(B) Two incentives or concessions for projects that include at least 17 percent of the total units for lower 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 development in which the units are for sale.

(C) Three incentives or concessions for projects that include at least 24 percent of the total units for lower 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 development in which the units are for sale.

(D) Four incentives or concessions for a project meeting the criteria of subparagraph (G) of paragraph (1) of subdivision (b). If the project is located within one-half mile of a major transit stop, the applicant shall also receive a height increase of up to three additional stories, or 33 feet.

(E) One incentive or concession for projects that include at least 20 percent of the total units for lower income students in a student housing development.

(3) The applicant may initiate judicial proceedings if the city, county, or city and county refuses to grant a requested density bonus, incentive, or concession. If a court finds that the refusal to grant a requested density bonus, incentive, or concession is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit. This subdivision shall not be interpreted to require a local government to grant an incentive or concession that has a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health or safety, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. This subdivision shall not be interpreted to require a local government to grant an incentive or concession that would have an adverse impact on any real property that is listed in the California Register of Historical Resources. The city, county, or city and county shall establish procedures for carrying out this section that shall include legislative body approval of the means of compliance with this section.

(4) The city, county, or city and county shall bear the burden of proof for the denial of a requested concession or incentive.

(e) (1) In no case may a city, county, or city and county apply any development standard that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted by this section. Subject to paragraph (3), an applicant may submit to a city, county, or city and county a proposal for the waiver or reduction of development standards that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted under this section, and may request a meeting with the city, county, or city and county. If a court finds that the refusal to grant a waiver or reduction of development standards is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit. This subdivision shall not be interpreted to require a local government to waive

or reduce development standards if the waiver or reduction would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health or safety, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. This subdivision shall not be interpreted to require a local government to waive or reduce development standards that would have an adverse impact on any real property that is listed in the California Register of Historical Resources, or to grant any waiver or reduction that would be contrary to state or federal law.

(2) A proposal for the waiver or reduction of development standards pursuant to this subdivision shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to subdivision (d).

(3) A housing development that receives a waiver from any maximum controls on density pursuant to clause (ii) of subparagraph (D) of paragraph (3) of subdivision (f) shall only be eligible for a waiver or reduction of development standards as provided in subparagraph (D) of paragraph (2) of subdivision (d) and clause (ii) of subparagraph (D) of paragraph (3) of subdivision (f), unless the city, county, or city and county agrees to additional waivers or reductions of development standards.

(f) For the purposes of this chapter, “density bonus” means a density increase over the otherwise maximum allowable gross residential density as of the date of application by the applicant to the city, county, or city and county, or, if elected by the applicant, a lesser percentage of density increase, including, but not limited to, no increase in density. The amount of density increase to which the applicant is entitled shall vary according to the amount by which the percentage of affordable housing units exceeds the percentage established in subdivision (b).

(1) For housing developments meeting the criteria of subparagraph (A) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Low-Income Units	Percentage Density Bonus
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
21	38.75
22	42.5
23	46.25
24	50

(2) For housing developments meeting the criteria of subparagraph (B) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Very Low Income Units	Percentage Density Bonus
5	20
6	22.5

7	25
8	27.5
9	30
10	32.5
11	35
12	38.75
13	42.5
14	46.25
15	50

(3) (A) For housing developments meeting the criteria of subparagraph (C) of paragraph (1) of subdivision (b), the density bonus shall be 20 percent of the number of senior housing units.

(B) For housing developments meeting the criteria of subparagraph (E) of paragraph (1) of subdivision (b), the density bonus shall be 20 percent of the number of the type of units giving rise to a density bonus under that subparagraph.

(C) For housing developments meeting the criteria of subparagraph (F) of paragraph (1) of subdivision (b), the density bonus shall be 35 percent of the student housing units.

(D) For housing developments meeting the criteria of subparagraph (G) of paragraph (1) of subdivision (b), the following shall apply:

(i) Except as otherwise provided in clause (ii), the density bonus shall be 80 percent of the number of units for lower income households.

(ii) If the housing development is located within one-half mile of a major transit stop, the city, county, or city and county shall not impose any maximum controls on density.

(4) For housing developments meeting the criteria of subparagraph (D) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Moderate-Income Units	Percentage Density Bonus
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
41	38.75
42	42.5
43	46.25
44	50

(5) All density calculations resulting in fractional units shall be rounded up to the next whole number. The granting of a density bonus shall not require, or be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary approval.

(g) (1) When an applicant for a tentative subdivision map, parcel map, or other residential development approval donates land to a city, county, or city and county in accordance with this subdivision, the applicant shall be entitled to a 15-percent increase above the otherwise maximum allowable residential density for the entire development, as follows:

Percentage Very Low Income	Percentage Density Bonus
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

(2) This increase shall be in addition to any increase in density mandated by subdivision (b), up to a maximum combined mandated density increase of 35 percent if an applicant seeks an increase pursuant to both this subdivision and subdivision (b). All density calculations resulting in fractional units shall be rounded up to the next whole number. Nothing in this subdivision shall be construed to enlarge or diminish the authority of a city, county, or city and county to require a developer to donate land as a condition of development. An applicant shall be eligible for the increased density bonus described in this subdivision if all of the following conditions are met:

(A) 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.

(B) 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 not less than 10 percent of the number of residential units of the proposed development.

(C) The transferred land is 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 with appropriate development standards for development at the density described in paragraph (3) of subdivision (c) of Section 65583.2, and is or will be served by adequate public facilities and infrastructure.

(D) The transferred land shall 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, not later than the date of approval of the final subdivision map, parcel map, or residential development application, except that the local government may subject the proposed development to subsequent design review to the extent authorized by subdivision (i) of Section 65583.2 if the design is not reviewed by the local government before the time of transfer.

(E) The transferred land and the affordable units shall be subject to a deed restriction ensuring continued affordability of the units consistent with paragraphs (1) and (2) of subdivision (c), which shall be recorded on the property at the time of the transfer.

(F) The land is transferred to the local agency or to a housing developer approved by the local agency. The local agency may require the applicant to identify and transfer the land to the developer.

(G) The transferred land shall be within the boundary of the proposed development or, if the local agency agrees, within one-quarter mile of the boundary of the proposed development.

(H) 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.

(h) (1) When an applicant proposes to construct a housing development that conforms to the requirements of subdivision (b) and includes a childcare facility that will be located on the premises of, as part of, or adjacent to, the project, the city, county, or city and county shall grant either of the following:

(A) 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 childcare facility.

(B) An additional concession or incentive that contributes significantly to the economic feasibility of the construction of the childcare facility.

(2) The city, county, or city and county shall require, as a condition of approving the housing development, that the following occur:

(A) The childcare 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 pursuant to subdivision (c).

(B) Of the children who attend the childcare facility, 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 income households, lower income households, or families of moderate income pursuant to subdivision (b).

(3) Notwithstanding any requirement of this subdivision, a city, county, or city and county shall not be required to provide a density bonus or concession for a childcare facility if it finds, based upon substantial evidence, that the community has adequate childcare facilities.

(4) "Childcare facility," as used in this section, means a child daycare facility other than a family daycare home, including, but not limited to, infant centers, preschools, extended daycare facilities, and schoolage childcare centers.

(i) "Housing development," as used in this section, means a development project for five or more residential units, including mixed-use developments. For the purposes of this section, "housing development" also includes a subdivision or common interest development, as defined in Section 4100 of the Civil Code, approved by a city, county, or city and county and consists of residential units or unimproved residential lots and either a project to substantially rehabilitate and convert an existing commercial building to residential use or the substantial rehabilitation of an existing multifamily dwelling, as defined in subdivision (d) of Section 65863.4, where the result of the rehabilitation would be a net increase in available residential units. For the purpose of calculating a density bonus, the residential units shall be on contiguous sites that are the subject of one development application, but do not have to be based upon individual subdivision maps or parcels. The density bonus shall be permitted in geographic areas of the housing development other than the areas where the units for the lower income households are located.

(j) (1) The granting of a concession or incentive shall not require or be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, study, or other discretionary approval. For purposes of this subdivision, "study" does not include reasonable documentation to establish eligibility for the concession or incentive or to demonstrate that the incentive or concession meets the definition set forth in subdivision (k). This provision is declaratory of existing law.

(2) Except as provided in subdivisions (d) and (e), the granting of a density bonus shall not require or be interpreted to require the waiver of a local ordinance or provisions of a local ordinance unrelated to development standards.

(k) For the purposes of this chapter, concession or incentive means any of the following:

(1) A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, including, but not limited to, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required that results in identifiable and actual cost reductions, to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).

(2) 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.

(3) Other regulatory incentives or concessions proposed by the developer or the city, county, or city and county that result in identifiable and actual cost reductions to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).

(l) Subdivision (k) does not limit or require the provision of direct financial incentives for the housing development, including the provision of publicly owned land, by the city, county, or city and county, or the waiver of fees or dedication requirements.

(m) This section does not supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code). Any density bonus, concessions, incentives, waivers or reductions of development standards, and parking ratios to which the applicant is entitled under this section shall be permitted in a manner that is consistent with this section and Division 20 (commencing with Section 30000) of the Public Resources Code.

(n) If permitted by local ordinance, nothing in this section shall be construed to prohibit a city, county, or city and county from granting a density bonus greater than what is described in this section for a development that meets the requirements of this section or from granting a proportionately lower density bonus than what is required by this section for developments that do not meet the requirements of this section.

(o) For purposes of this section, the following definitions shall apply:

(1) "Development standard" includes a site or construction condition, including, but not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open-space requirement, or a parking ratio that applies to a residential development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation.

(2) "Located within one-half mile of a major transit stop" means that any point on a proposed development, for which an applicant seeks a density bonus, other incentives or concessions, waivers or reductions of development standards, or a vehicular parking ratio pursuant to this section, is within one-half mile of any point on the property on which a major transit stop is located, including any parking lot owned by the transit authority or other local agency operating the major transit stop.

(3) "Lower income student" means a student who has a household income and asset level that does not exceed the level for Cal Grant A or Cal Grant B award recipients as set forth in paragraph (1) of subdivision (k) of Section 69432.7 of the Education Code. The eligibility of a student to occupy a unit for lower income students under this section shall be verified by an affidavit, award letter, or letter of eligibility provided by the institution of higher education in which the student is enrolled or by the California Student Aid Commission that the student receives or is eligible for financial aid, including an institutional grant or fee waiver from the college or university, the California Student Aid Commission, or the federal government.

(4) "Major transit stop" has the same meaning as defined in subdivision (b) of Section 21155 of the Public Resources Code.

(5) "Maximum allowable residential density" means the density allowed under the zoning ordinance and land use element of the general plan, or, if a range of density is permitted, means the maximum allowable density for the specific zoning range and land use element of the general plan applicable to the project. If the density allowed under the zoning ordinance is inconsistent with the density allowed under the land use element of the general plan, the general plan density shall prevail.

(6) "Total units" or "total dwelling units" means a calculation of the number of units that:

(A) Excludes a unit added by a density bonus awarded pursuant to this section or any local law granting a greater density bonus.

(B) Includes a unit designated to satisfy an inclusionary zoning requirement of a city, county, or city and county.

(p) (1) Except as provided in paragraphs (2), (3), and (4), upon the request of the developer, a city, county, or city and county shall not require a vehicular parking ratio, inclusive of parking for persons with a disability and guests, of a development meeting the criteria of subdivisions (b) and (c), that exceeds the following ratios:

(A) Zero to one bedroom: one onsite parking space.

(B) Two to three bedrooms: one and one-half onsite parking spaces.

(C) Four and more bedrooms: two and one-half parking spaces.

(2) (A) Notwithstanding paragraph (1), if a development includes at least 20 percent low-income units for housing developments meeting the criteria of subparagraph (A) of paragraph (1) of subdivision (b) or at least 11 percent very low income units for housing developments meeting the criteria of subparagraph (B) of paragraph (1) of subdivision (b), is located within one-half mile of a major transit stop, and the residents of the development have unobstructed access to the major transit stop from the development, then, upon the request of the developer, a city, county, or city and county shall not impose a vehicular parking ratio, inclusive of parking for persons with a disability and guests, that exceeds 0.5 spaces per unit. Notwithstanding paragraph (1), if a development includes at least 40 percent moderate-income units for housing developments meeting the criteria of subparagraph (D) of paragraph (1) of subdivision (b), is located within one-half mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code, and the residents of the development have unobstructed access to the major transit stop from the development, then, upon the request of the developer, a city, county, or city and county shall not impose a vehicular parking ratio, inclusive of parking for persons with a disability and guests, that exceeds 0.5 spaces per bedroom.

(B) For purposes of this subdivision, “unobstructed access to the major transit stop” means a resident is able to access the major transit stop without encountering natural or constructed impediments. For purposes of this subparagraph, “natural or constructed impediments” includes, but is not limited to, freeways, rivers, mountains, and bodies of water, but does not include residential structures, shopping centers, parking lots, or rails used for transit.

(3) Notwithstanding paragraph (1), if a development consists solely of rental units, exclusive of a manager’s unit or units, with an affordable housing cost to lower income families, as provided in Section 50052.5 of the Health and Safety Code, then, upon the request of the developer, a city, county, or city and county shall not impose vehicular parking standards if the development meets either of the following criteria:

(A) The development is located within one-half mile of a major transit stop and the residents of the development have unobstructed access to the major transit stop from the development.

(B) The development is a for-rent housing development for individuals who are 62 years of age or older that complies with Sections 51.2 and 51.3 of the Civil Code and the residents of the development have either access to paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.

(4) Notwithstanding paragraphs (1) and (8), if a development consists solely of rental units, exclusive of a manager’s unit or units, with an affordable housing cost to lower income families, as provided in Section 50052.5 of the Health and Safety Code, and the development is either a special needs housing development, as defined in Section 51312 of the Health and Safety Code, or a supportive housing development, as defined in Section 50675.14 of the Health and Safety Code, then, upon the request of the developer, a city, county, or city and county shall not impose any minimum vehicular parking requirement. A development that is a special needs housing development shall have either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.

(5) 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 subdivision, a development may provide onsite parking through tandem parking or uncovered parking, but not through onstreet parking.

(6) This subdivision shall apply to a development that meets the requirements of subdivisions (b) and (c), but only at the request of the applicant. An applicant may request parking incentives or concessions beyond those provided in this subdivision pursuant to subdivision (d).

(7) This subdivision does not preclude a city, county, or city and county from reducing or eliminating a parking requirement for development projects of any type in any location.

(8) Notwithstanding paragraphs (2) and (3), if a city, county, city and county, or an independent consultant has conducted an areawide or jurisdictionwide parking study in the last seven years, then the city, county, or city and county may impose a higher vehicular parking ratio not to exceed the ratio described in paragraph (1), based upon substantial evidence found in the parking study, that includes, but is not limited to, an analysis of parking availability, differing levels of transit access, walkability access to transit services, the potential for shared parking, the effect of parking requirements on the cost of market-rate and subsidized developments, and the lower rates of car ownership for low-income and very low income individuals, including seniors and special needs individuals. The city, county, or city and county shall pay the costs of any new study. The city, county, or city and county shall make findings, based on a parking study completed in conformity with this paragraph, supporting the need for the higher parking ratio.

(9) A request pursuant to this subdivision shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to subdivision (d).

(q) Each component of any density calculation, including base density and bonus density, resulting in fractional units shall be separately rounded up to the next whole number. The Legislature finds and declares that this provision is declaratory of existing law.

(r) This chapter shall be interpreted liberally in favor of producing the maximum number of total housing units.

(s) Notwithstanding any other law, if a city, including a charter city, county, or city and county has adopted an ordinance or a housing program, or both an ordinance and a housing program, that incentivizes the development of affordable housing that allows for density bonuses that exceed the density bonuses required by the version of this section effective through December 31, 2020, that city, county, or city and county is not required to amend or otherwise update its ordinance or corresponding affordable housing incentive program to comply with the amendments made to this section by the act adding this subdivision, and is exempt from complying with the incentive and concession calculation amendments made to this section by the act adding this subdivision as set forth in subdivision (d), particularly subparagraphs (C) and (D) of paragraph (2) of that subdivision, and the amendments made to the density tables under subdivision (f).

(t) (1) The Legislature finds and declares that the intent behind the Density Bonus Law is to allow public entities to reduce or even eliminate subsidies for a particular project by allowing a developer to include more total units in a project than would otherwise be allowed by the local zoning ordinance in exchange for affordable units. It further reaffirms that the intent is to cover at least some of the financing gap of affordable housing with regulatory incentives, rather than additional public subsidy.

(2) It is therefore the intent of the Legislature to make modifications to the Density Bonus Law by the act adding this subdivision to further incentivize the construction of very low, low-, and moderate-income housing units. It is further the intent of the Legislature in making these modifications to the Density Bonus Law to ensure that any additional benefits conferred upon a developer are balanced with the receipt of a public benefit in the form of adequate levels of affordable housing. The Legislature further intends that these modifications will ensure that the Density Bonus Law creates incentives for the construction of more housing across all areas of the state.

SEC. 3. (a) Section 1.3 of this bill incorporates amendments to Section 65400 of the Government Code proposed by both this bill and Assembly Bill No. 168. That section shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2021, (2) each bill amends Section 65400 of the Government Code, (3) Senate Bill No. 1085 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after Assembly Bill No. 168, in which case Section 65400 of the Government Code, as

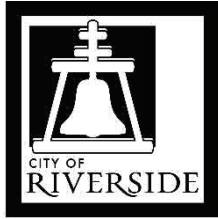
amended by Assembly Bill No. 168, shall remain operative only until the operative date of this bill, at which point Section 1.3 of this bill shall become operative and Sections 1, 1.5, and 1.7 of this bill shall not become operative.

(b) Section 1.5 of this bill incorporates amendments to Section 65400 of the Government Code proposed by both this bill and Senate Bill No. 1085. That section shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2021, (2) each bill amends Section No. 65400 of the Government Code, (3) Assembly Bill No. 168 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after Senate Bill No. 1085 in which case Sections 1, 1.3, and 1.7 of this bill shall not become operative.

(c) Section 1.7 of this bill incorporates amendments to Section 65400 of the Government Code proposed by this bill, Assembly Bill No. 168, and Senate Bill No. 1085. That section shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 2021, (2) all three bills amend Section 65400 of the Government Code, and (3) this bill is enacted after Assembly Bill No. 168 and Senate Bill No. 1085, in which case Section 65400 of the Government Code, as amended by Assembly Bill No. 168, shall remain operative only until the operative date of this bill, at which point Section 1.7 of this bill shall become operative and Sections 1, 1.3, and 1.5 of this bill shall not become operative.

SEC. 4. Section 2.5 of this bill incorporates amendments to Section 65915 of the Government Code proposed by both this bill and Senate Bill No. 1085. That section shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2021, (2) each bill amends Section 65915 of the Government Code, and (3) this bill is enacted after Senate Bill No. 1085, in which case Section 2 of this bill shall not become operative.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.



City of Arts & Innovation

Housing and Homelessness Committee Memorandum

TO: HOUSING AND HOMELESSNESS COMMITTEE MEMBERS DATE: FEBRUARY 28, 2022

FROM: OFFICE OF HOMELESS SOLUTIONS WARD: ALL

SUBJECT: UPDATE ON INCLUSIONARY HOUSING PROGRAM STUDY FOR THE CITY OF RIVERSIDE

ISSUE:

Receive a presentation on updates related to the City of Riverside Inclusionary Housing Program study and preliminary recommendations for inclusionary requirements.

RECOMMENDATION:

That the Housing and Homelessness Committee:

1. Receive an update on the Inclusionary Housing Program Study for the City of Riverside, including preliminary recommendations on inclusionary housing program requirements; and
2. Provide staff with direction on how to proceed with the Inclusionary Housing Program Study.

BACKGROUND:

In recent years, the State of California has identified the shortage of housing, particularly affordable housing, as a legislative priority. A housing shortage impacts the State's economy, contributes to homelessness, and results in long commutes, increasing production of greenhouse gas emissions, air pollution, and poor public health. Affordable housing is defined as rent/utilities or mortgage/taxes/insurance/utilities that cost 30% or less of the gross household income and are available to persons who earn at or below 80% of the Area Median Income (or \$63,200 for a family of four in 2021). The State further delineates affordability levels for "low-income" households, earning between 50% and 80% of the Area Median Income; and for "very-low income" households, earning between 30% and 50% of the Area Median Income. The State also defines households earning "moderate incomes," between 80% and 120% of Area Median Income.

Facing a rise in local rents and housing costs, a steady rise in homelessness, and a decrease in homeownership associated with the high cost of housing, on May 18, 2021, the City Council and Housing Authority Board authorized the award of an Agreement with Economic & Planning Systems, Inc., (EPS) to explore the possibility of implementing an inclusionary housing policy in the City of Riverside. By definition, inclusionary housing policies are local policies that could

require developers to sell or rent a percentage of new residential units to lower-income residents or pay an in-lieu fee to support the development of such units. To offset the cost of providing affordable housing in all new projects, an Inclusionary Housing Program can offer incentives to developers in the form of zoning concessions such as reduced parking, density bonuses, or tax abatements. Developers can also be given an option to choose an alternative to providing the affordable units in the form of in-lieu fees or providing affordable units at an alternate location. Inclusionary Housing Programs can include both for-sale and rental units and are often implemented through the jurisdiction's zoning code.

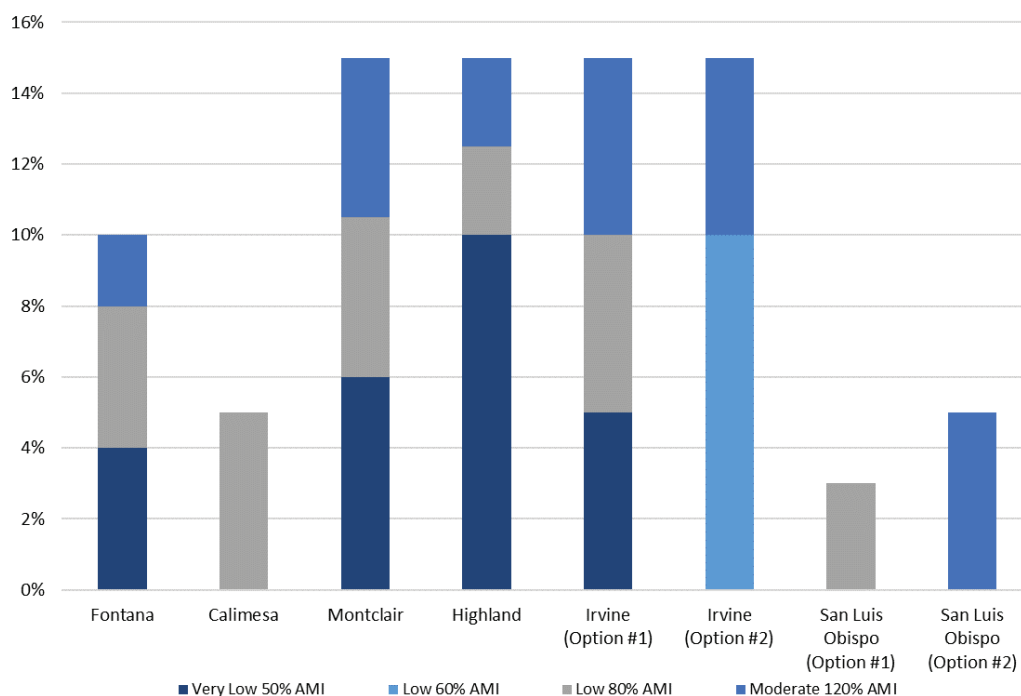
On September 28, 2021, City staff and EPS presented to the Housing and Homelessness Committee on the initial analysis of the development feasibility impacts of a range of inclusionary policy alternatives on new market-rate residential development. At that meeting, the Committee directed Housing Authority staff and EPS to proceed with the next steps of the Study, including stakeholder and community outreach.

DISCUSSION:

Survey of Comparable Jurisdictions

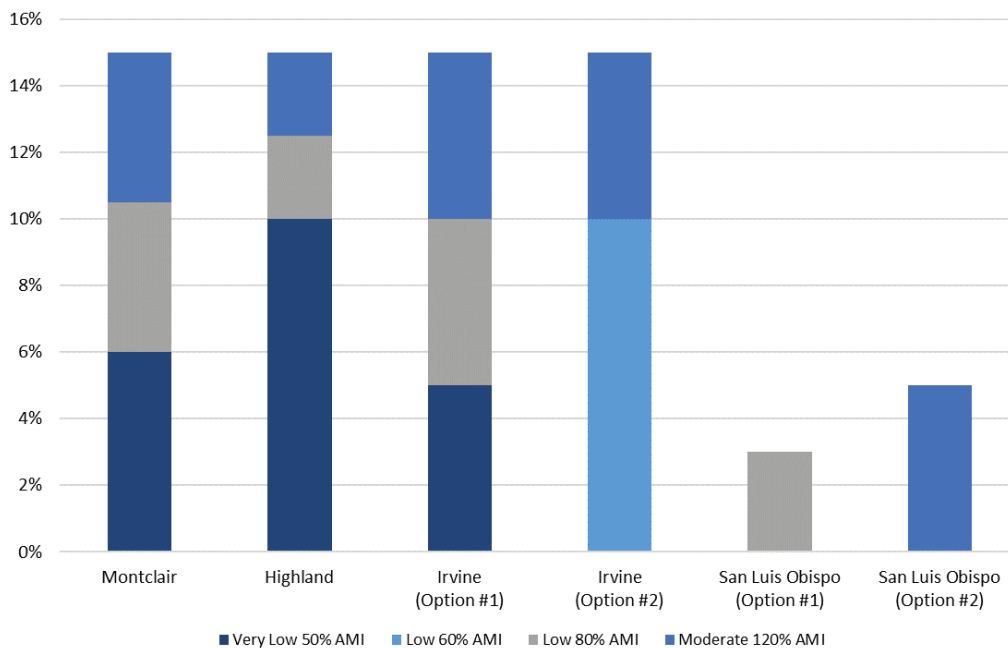
Inclusionary housing requirements are common throughout California, with over 170 jurisdictions imposing such requirements on new residential construction. Communities have considerable flexibility regarding the components of their inclusionary programs, in terms of what percentages of units must be affordable, the income levels required, whether they apply to both rental and for-sale housing, what sizes and types of projects may be exempt, whether they allow fees in lieu of providing units, and other components. A small sample of selected jurisdictions with geographic or economic similarities to Riverside indicates that communities have adopted a wide range of inclusionary programs, as shown below:

Figure 1: Selected Sample of Inclusionary Standards for For-Sale Housing



Note: Fontana and Calimesa do not have inclusionary requirements for rental residential projects.

Figure 2: Selected Sample of Inclusionary Standards for Rental Housing



As shown in Figures 1 and 2, it is common for communities to require as much as 15 percent inclusionary units and with a mix of income levels. However, some communities require lower percentages of units and at a single income level. These findings inform the preliminary recommendations for Riverside's inclusionary program, discussed below.

More data regarding other communities' inclusionary standards can be found at the following website: [California Inclusionary Housing Programs Searchable Database \(arcgis.com\)](https://arcgis.com)

Stakeholder and Community Outreach:

Following the September 28, 2021, Housing and Homelessness Committee meeting, EPS engaged in several stakeholder and community outreach meetings to present the initial feasibility study findings and solicit feedback on the potential inclusionary program. These meetings are summarized below:

EPS hosted two virtual stakeholder meetings in November 2021. The first stakeholder meeting took place on November 5, 2021, and included seven participants involved in housing advocacy work and/or development of affordable residential properties. Primary feedback from this workshop included:

- Importance of including affordable units in market-rate developments, to avoid clustering of affordable units in existing low-income areas of City.
- Some but not unanimous support for consideration of in-lieu fee option, as it can result in more affordable units in the long-run through funding leverage.
- Program should include option for land donation and/or collaboration with nonprofit builders for separate buildings to meet inclusionary requirement – would be relevant for larger projects.
- Encouraging City to explore other tools for developing permanent/long-term affordable housing, including co-ops and community land trusts, and other funding sources such as transient occupancy tax (TOT).

The second stakeholder meeting took place on November 16, 2021, and included 16 participants involved in developing and operating market-rate residential projects. Representatives from the Riverside Chamber of Commerce and Building Industry Association attended this workshop. Primary feedback from this workshop included:

- Desire for flexibility from City in negotiating on a project-by-project basis, to reflect that every project has unique cost factors.
- Concern that feasibility models may underestimate development costs, in which case financial returns are overestimated and projects may be less able to absorb the costs of inclusionary requirements.
- Interest in having incentives that will reduce costs elsewhere in a project, although higher density allowances do not always improve project feasibility because construction costs can increase.
- Combined with other City policies that are adding costs to development, such as VMT reduction and electrification policies, the addition of inclusionary requirements can push many projects into infeasibility.
- Better option to get affordable units is to support the building of 100% affordable projects on City-owned land; alternately, City should share in cost of inclusionary requirements somehow.

On January 12, 2022, EPS and City staff hosted a virtual community webinar on the Inclusionary Housing Program Study. Approximately 50 individuals signed on to the meeting. EPS provided a presentation on the Study, and EPS and City staff took written and oral questions and comments from attendees. Primary feedback from this meeting included:

- Overall support for an inclusionary housing policy.
- Preference to require units on-site rather than allow in-lieu fee; fee should be higher than cost of providing on-site units to discourage the fee option.
- Questions about other means of encouraging development of affordable units, such as density bonuses (which the City and State do have).
- Stated need for provision of affordable housing that serves special needs population.

On January 25, 2022, EPS staff provided a consolidated version of the community webinar at a meeting of the Riverside Chamber of Commerce's Economic Development Council.

Review of Feasibility Findings

Since presenting to the Housing and Homelessness Committee on September 28, 2021, EPS made some refinements and additions to its feasibility analysis. One refinement includes an adjustment in maximum rents and sale prices affordable to very-low, low-, and moderate-income households. While the State defines the upper limit of these affordability levels at 50%, 80%, and 120% of Area Median Income, respectively, EPS has found that it is a best practice to set the upper limit for low- and moderate-income households at 70% and 110% of Area Median Income, respectively. This approach, which is used by many California jurisdictions, allows more households to qualify for and afford the inclusionary units, but does lower the revenue from those units and thus affects feasibility. Table 1 shown in Attachment 1 summarizes the maximum incomes and associated maximum rents and sale prices used in the feasibility analysis.

One addition to the analysis is the preliminary calculation of affordable housing in-lieu fee levels for various inclusionary requirements. The fee levels reflect the financial subsidy needed to build the affordable units that the development is not providing on-site. Payment of such a fee can be

offered as an alternative option to providing on-site units, although some cities do limit the option to specific conditions (e.g., to cover fractional units required, or only for projects below a certain size). The City would collect fee revenues in a dedicated fund to utilize in support of producing and preserving affordable housing units in Riverside. Examples of potential uses include providing local matching funds to support 100% affordable projects, purchasing land for affordable housing development, or purchasing existing units and requiring/extending affordability.

EPS applied a range of inclusionary scenarios, including payment of the in-lieu fee, to the five housing prototypes identified in the preliminary feasibility analysis. These prototypes include for-sale single-family detached homes (10 units per acre) and attached townhomes (15 units per acre), as well as rental apartments at different densities reflecting their locations in the Downtown (100 units per acre), Downtown- and transit-adjacent areas (60 units per acre), or other neighborhoods of the City (30 units per acre). EPS updated its feasibility analysis to compare development costs and revenues under the inclusionary requirements to determine whether they met common investment thresholds for feasibility. For the for-sale housing, the feasibility threshold is a 15% profit margin (values exceed costs by at least 15 percent). For rental properties, the feasibility threshold is a "return on cost" of 5.25%, meaning that the expected net operating income of the project (total rents received less operating expenses) would equal at least 5.25% of the project's total development costs.

For rental housing, EPS tested the following inclusionary requirement scenarios: 1) 15% of units affordable to low-income households; 2) 10% of units affordable to low-income households; and 3) 10% of units affordable to very-low income households. EPS also estimated that if the inclusionary requirement were for 10% of units to be affordable to low-income households, the associated in-lieu fee needed to support the development of the required units elsewhere would be approximately \$13,000 per market-rate unit built. EPS found that rental projects developed at 30 units per acre outside of the Downtown and nearby areas could feasibly include affordable units in all of the scenarios. However, rental projects developed at 60 or 100 units per acre in and around Downtown would have higher development costs per unit and could not feasibly include affordable units in any of the scenarios. Therefore, it would be feasible for these higher-density projects to pay the estimated in-lieu fee.

For for-sale attached townhomes, EPS tested the following inclusionary scenarios: 1) 10% of units affordable to low-income households; and 2) 5% of units affordable to very-low income households. EPS also estimated that if the inclusionary requirement were for 10% of units to be affordable to low-income households, the associated in-lieu fee needed to support the development of the required units elsewhere would be approximately \$17,000 per market-rate unit built. EPS found that for-sale attached townhome projects are forecast to have strong profit margins and could feasibly provide affordable units under both inclusionary scenarios, and that paying the estimated in-lieu fee rather than providing on-site units would be feasible for such projects as well.

For for-sale detached single-family homes, EPS tested the following inclusionary requirements: 1) 5% of units affordable to moderate income households; and 2) 2% of units affordable to low-income households. EPS also estimated that if the inclusionary requirement were for 5% of units to be affordable to moderate-income households, the associated in-lieu fee needed to support the development of the required units elsewhere would be approximately \$7,000 per market-rate unit built. EPS found that under current cost and value expectations, for-sale detached single-family developments are forecast to have marginally feasible profit margins even if they are all market-rate units and that such projects would face feasibility challenges whether they provide affordable units on-site under either inclusionary scenario or pay the estimated in-lieu fee.

Preliminary Recommendations

Given the findings of the feasibility analysis and the feedback received from stakeholders and community members, EPS has compiled a preliminary set of recommendations for an Inclusionary Housing Program in Riverside for the Committee's consideration:

- 1) Inclusionary requirements
 - Multifamily – 10% of units affordable to low-income households (70% AMI)*
 - Townhome - 10% of units affordable to low-income households (70% AMI)*
 - Single-family – 5% of units affordable to moderate-income households (110% AMI)

*These requirements would automatically qualify projects for the use of State density bonus
- 2) Develop an in-lieu fee to align with the above requirements. Allowance for payment of fee should be based on City priorities (e.g., encouraging on-site units/mixed-income properties vs. maximize local support for affordable projects).
- 3) Consider a phased-in approach for requirements to allow markets to adjust and a set timeline for revisiting requirements in light of evolving market conditions.

STRATEGIC PLAN ALIGNMENT:

This item contributes to **Strategic Priority 2: Community Well -Being** and **Goal No. 2. 1** Facilitate the development of a quality and diverse housing supply that is available and affordable to a wide range of income levels. It also supports **Action 2. 1. 4**, Prepare creative land use regulations that include Adaptive Reuse Ordinance, Inclusionary Zoning, Density Bonus Ordinance, and Infill Ordinance to create incentives for housing development.

This item aligns with each of the five Cross-Cutting Threads as follows:

1. **Community Trust** — The initiative to explore an inclusionary policy merges best practices in policy development with intensive outreach and communication with both the development community and public to be transparent and make decisions based on sound policy, and inclusive community engagement based on timely and reliable information.
2. **Equity** — Inclusionary Housing promotes the integration of affordable housing into the City's market rate stock which allows people of different races, backgrounds, and economic circumstances to live throughout Riverside, lessening the concentration of poverty and broadening the experiences of those who live in affordable/market mixed units.
3. **Fiscal Responsibility** — By using local development resources to ensure a balanced housing market, Riverside is a prudent steward of public funds and ensures responsible management of the City' s financial resources while providing quality of life to all residents.
4. **Innovation** — Exploring inclusionary housing potentially creates a development tool to address changing needs and prepares for the future through collaborative partnerships and adaptive processes in consultation with the public and development community.
5. **Sustainability & Resiliency** — By creating a balanced housing market, Riverside is ensuring a balanced economy that serves all income levels of city residents but does not sacrifice growth.

FISCAL IMPACT:

There is no fiscal impact associated with the report.

Prepared by: Michelle Davis, Housing Authority Manager

Certified as to

Availability of funds: Edward Enriquez, Chief Financial Officer/Treasurer

Approved by: Lea Deesing, Assistant City Manager

Approved as to form: Phaedra A. Norton, City Attorney

Attachments:

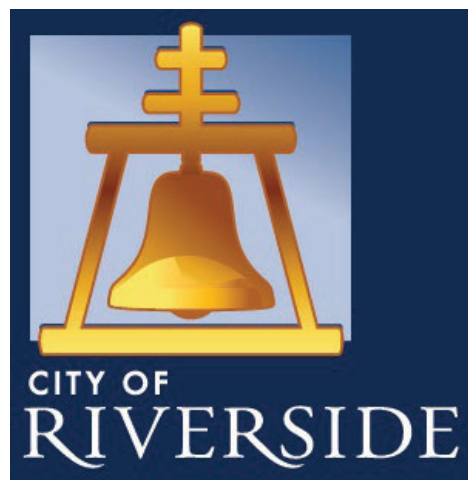
1. Table 1: Affordability Standards for the City of Riverside
2. Presentation



1. Inclusionary Requirement – initiate program at a place where our market can bear and then make changes over time

Development Type	% of Units	Affordability Level
Multifamily	10%	Low-income - 70% of Area Median Income (AMI)
High-Density Single Family (e.g., Townhome)	10%	Low-income - 70% of AMI
Low-Density Single-Family	5%	Moderate-income - 110% of AMI

2. Exemptions to Inclusionary Housing Requirement
 - a. Residential projects with fewer than three units
 - b. Residential projects that have submitted a **complete** application - Staff is developing definition for complete application that will require City Council approval
3. Affordability Term
 - a. Rental units: 55 years
 - b. For-sale units: 45 years, equity share provision if properties are sold to a non-income eligible homebuyer
 - c. 99-year lease on Housing Authority-owned properties
4. Size of Affordable Housing Units
 - a. Multifamily rental projects: Require on-site or off-site affordable units to reflect the mix of market-rate units (e.g., same proportion of one- bedrooms, two-bedrooms, etc.)
 - b. Net leasable areas of at least 90 percent of the average size of the market-rate units of similar bedroom counts (up to 10% smaller in size than market rate units)
5. Off-Site Affordable Housing Units
 - a. Allow developers to meet their inclusionary housing requirement by providing affordable housing units off-site.
 - b. Require that the number of off- site affordable housing units be equivalent to a higher proportion of the market-rate units than if the inclusionary requirement is met on-site.
 - i. Must be built within the Ward - 15% of the units
 - ii. Overconcentration and development of off-site affordable units - Staff is developing definition for overconcentration that will require City Council approval
6. In-Lieu Fee
 - a. Any fee requires direction and approval by City Council
 - b. Allow payment of an in-lieu fee for all or a portion of the inclusionary housing requirement
 - c. In-lieu fees based on the percentage of affordable units required if the inclusionary units were provided outside the boundaries
 - d. Also required for any fractional units required for multifamily and townhome projects
7. Next Steps:
 - a. Planning Commission: August 2022
 - b. City Council: September 2022



Zoning Streamline Phase 2

PR-2022-001391 – Zoning Code Amendment

Community & Economic Development Department

Planning Commission

Agenda Item: 3

August 18, 2022

[RiversideCA.gov](https://www.RiversideCA.gov)

OVERVIEW OF PRESENTATION

1. Inclusionary Housing Ordinance
2. Density Bonus Ordinance
3. Zoning Clean- Up Items - Regulations related to:
 - ✓ Industrial Zones
 - ✓ Alcohol Sales
 - ✓ Parking
 - ✓ Fair Housing and Reasonable Accommodation
 - ✓ Definitions



BACKGROUND

Inclusionary Housing

- Local policy requiring new housing development to include affordable homes
 - ✓ Common in many California jurisdictions, including locally
 - ✓ Tool in toolbox to expand housing options for all
- May 18, 2021 – City Council authorizes feasibility study
- May 23, 2022 – Housing & Homelessness Committee recommends proposed Inclusionary Housing Program be brought to CPC and CC

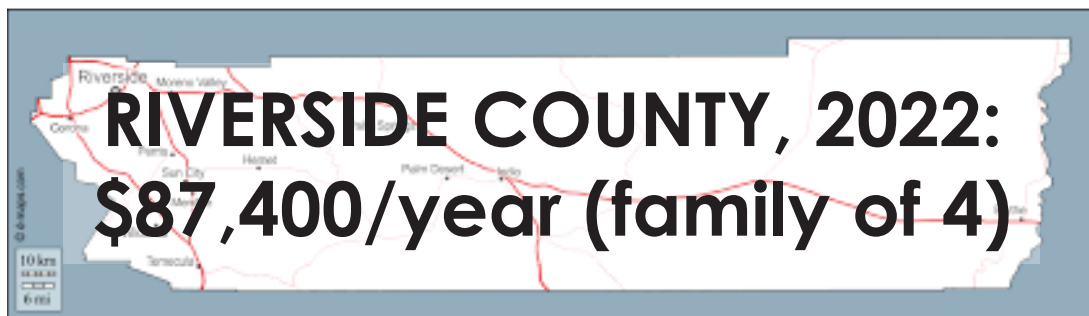


BACKGROUND

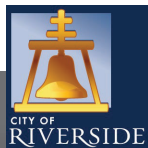
Inclusionary Housing

WHAT IS AFFORDABLE? AND TO WHOM?

- If you spend no more than **30% of your gross income** on your housing (rent, mortgage, taxes, utilities, etc.), you can afford your housing.
- *Income limits* are set by Federal and State standards, based on **Area Median Income** (typically by county).



INCOME LIMIT	INCOME
Very Low (50% AMI)	\$44,000
Low (80% AMI)	\$70,400
Moderate (120% AMI)	\$104,900



BACKGROUND

Inclusionary Housing

WHY DOES THIS MATTER NOW?

INCOME LIMIT	INCOME	AFFORDABLE HOUSING COST
Very Low (50% AMI)	\$44,000	\$1,100/month
Low (80% AMI)	\$70,400	\$1,760/month
Moderate (120% AMI)	\$104,900	\$2,622/month

Average Rent in Riverside, CA	
Last updated July 2022	
Average Rent	Average Apartment Size
\$2,167	846 sq. ft.

Source: RentCafe

Median Sold Price	Key Takeaway
\$581,057 \$353/sqft Difference Since July 2021 +\$95,219 (+19.6%) ↑	 Homes in Riverside have sold for 19.6% more than they did a year ago.

Source: RocketHomes

BACKGROUND

Density Bonus

- State Law providing for increased density for residential projects that include affordable units
- Existing Ordinance (RMC 19.545) – update with Housing Element
 - ✓ New legislation requires updates (Senate Bill 290 and Assembly Bill 2345)
- Works together with Inclusionary Housing



BACKGROUND

Zoning Clean-Up

- City monitors and regularly brings forth Zoning Code updates to streamline regulations and improve processes
- Five areas:

Industrial Zones

Alcohol Sales

Parking
Requirements

Fair Housing and
Reasonable
Accommodation

Definitions



PROPOSED AMENDMENTS: INCLUSIONARY HOUSING

New Chapter: 19.535 – Inclusionary Housing

- Applies to new development with 3+ new homes
- Inclusionary requirements set by type of development:
 - **For-sale single-family:** (up to 10.9 units/acre): 5% affordable to Moderate-Income (110% area median income)
 - **For-sale condo and townhome:** (10.9-14.5 units/acre): 10% affordable to Lower Income (70% AMI)
 - **All rental projects:** 10% affordable to Lower-Income (70% AMI)



PROPOSED AMENDMENTS: INCLUSIONARY HOUSING

New Chapter: 19.535 – Inclusionary Housing

- Alternative Compliance:
 - **Off-site development** – higher affordability:
 - For-sale single-family: 8% affordable to Moderate-Income
 - For-sale condo, townhome and rentals: 15% affordable to Lower Income
 - **In-Lieu Fees** – per unit, same % as off-site
 - Fees deposited into dedicated Affordable Housing Fund
 - Amount set by Council resolution, based on nexus study



PROPOSED AMENDMENTS: DENSITY BONUS

19.545 – Density Bonus

2019 STATUTE:

Unit Type	Minimum % of Units	Density Bonus Granted	Additional Bonus for each 1% Increase in Units	Maximum Density Bonus
Very Low Income	5%	20%	2.5% bonus through 17% of units	50%
Low Income	10%	20%	1.5% bonus through 30% of units	50%
Moderate Income (for-sale units only)	10%	5%	1% bonus through 55% of units	50%

2022 STATUTE:

Unit Type	Minimum % of Units	Density Bonus Granted	Additional Bonus for each 1% Increase in Units	Maximum Density Bonus
Very Low Income	5%	20%	2.5% bonus through 11% of units 3.75% from 12% - 15% of units	50%
Low Income	10%	20%	1.5% bonus through 20% of units 3.75% from 21% - 24% of units	50%
Moderate Income (for-sale units only)	10%	5%	1% bonus through 40% of units 3.75% from 41% - 44% of units	50%
100% Affordable (VLI, LI, MI)	100% (max. 20% MI)	80%	-	Unlimited (1/2 mile of major transit stop)



PROPOSED AMENDMENTS: DENSITY BONUS

19.545 – Density Bonus

2019 STATUTE:

Percentage of Affordable Units (Minimum)	Number of Concessions
5% Very Low 10% Low 10% Moderate (for-sale units only)	1
10% Very Low 20% Low 20% Moderate (for-sale units only)	2
15% Very Low 30% Low 30% Moderate (for-sale units only)	3
100% Very Low or Low (maximum 20% Moderate)*	4

**Plus up to 3 stories/33-foot height increase within ½ mile of major transit stop*

Unit Size	Required Parking Spaces
Studio	1
1 Bedroom	1
2 Bedroom	2
3 Bedroom	2
4 Bedroom	2.5

2022 STATUTE:

Percentage of Affordable Units (Minimum)	Number of Concessions
5% Very Low 10% Low 10% Moderate (for-sale units only) 20% Lower Income Student	1
10% Very Low 17% Low 20% Moderate (for-sale units only)	2
15% Very Low 24% Low 30% Moderate (for-sale units only)	3
100% Very Low or Low (maximum 20% Moderate)*	4

**Plus up to 3 stories/33-foot height increase within ½ mile of major transit stop*

Unit Size	Required Parking Spaces
Studio	1
1 Bedroom	1
2 Bedroom	1.5
3 Bedroom	1.5
4 Bedroom	2.5



PROPOSED AMENDMENTS: ZONING CLEANUP

19.130 – Industrial Zones

- Clarify landscape setback requirement – side and rear yards
- Clarify distance measurement for maximum building size – from residential property line to building

19.450 – Alcohol Sales

- Clarify exemptions from Minor CUP requirement for restaurants
- Type 41 and Type 47 ABC licenses – “bona fide public eating places” – on-site consumption only – Minor CUP not required



PROPOSED AMENDMENTS: ZONING CLEANUP

19.580 – Parking Requirements

- Consolidate allowances for off-site, off-street parking for various uses – within 300 feet of site
- Student Housing – within ¼ mile of public transport or college/university campus – 0.5 parking space per bed (elsewhere, 1.1 space/bed)

19.850 – Fair Housing and Reasonable Accommodation

- Remove all references to Variance procedures, findings for Reasonable Accommodation Requests
- Required by State and Federal Fair Housing Law
- Implementation action of General Plan Housing Element



PROPOSED AMENDMENTS: ZONING CLEANUP

19.910 – Definitions

- New definitions related to 19.535 (Inclusionary Housing) and 19.545 (Density Bonus):
 - Affordable Housing
 - Affordable Housing Agreement
 - Affordable Housing Cost
 - Affordable Rent
 - Affordable Sales Price
 - Area Median Income
 - Density (high, moderate, low)
 - Disabled Veteran
 - Homeless Persons
 - Household
 - In-Lieu Fee
 - Lower-Income Student
 - Major Transit Stop
 - Resale Restriction Agreement
 - Residential Development Project
 - Total Units
 - Unit:
 - For-Sale, Inclusionary, Low-Income, Market-Rate, Moderate-Income, Rental, Very Low-Income
 - Unobstructed Access



PUBLIC OUTREACH – INCLUSIONARY HOUSING

- **November 5, 2021**– Virtual stakeholder meeting
- **November 16, 2021** – Virtual stakeholder meeting
- **January 12, 2022** – Virtual community webinar
- **January 25, 2022** – Webinar with Chamber of Commerce
- **June 28, 2022** – Stakeholder meeting with Chamber
- **Monthly updates** to Housing & Homelessness



The screenshot shows a social media post from the user 'cmerinedwards'. The post is titled 'INCLUSIONARY HOUSING POLICY' and features a header image of a modern residential development. The text of the post states: 'The City of Riverside is considering amending its Municipal Code for adoption of an Inclusionary Housing Policy to create housing options for residents at various income levels.' Below this, there is a section titled 'JOIN US TO:' with three bullet points: 'Learn how Inclusionary Housing Policies work', 'Discuss ongoing results and findings of the City's Inclusionary Housing Feasibility Analysis', and 'Gather additional feedback and review and respond to feedback from the public and stakeholders received to date'. To the right of these points is a graphic that says 'WE NEED YOUR INPUT!' and 'WEDNESDAY, JANUARY 12, 2022 VIRTUAL COMMUNITY MEETING 6 – 7:30 P.M.' with a note 'Spanish translation will be provided'. At the bottom, there is a link to 'RiversideCA.gov/HomelessSolutions' and a Zoom Meeting ID: 87906515211. The post also includes a phone number: (951) 826-5649 and a phone number: +1 (669) 900-6833. The bottom of the screenshot shows social media interaction icons (heart, comment, share, and bookmark).

STRATEGIC PLAN ALIGNMENT



Strategic Priority No. 2 – *Community Well-Being*

Goal No. 2.1 - Facilitate the development of a quality and diverse housing supply that is available and affordable to a wide range of income levels.

RECOMMENDATIONS

That the Planning Commission **recommend the City Council:**

1. Determine that Planning Case PR-2022-001391 is exempt from further California Environmental Quality Act (CEQA) review pursuant to Section 15061(b)(3) (General Rule), as it can be seen with certainty that approval of the project will not have an effect on the environment; and
2. Approve Planning Case PR-2022-001391 (Zoning Text Amendment) as outlined in the staff report and summarized in the Findings section of the report.

