

Chapter 17.83

DENSITY BONUS PROCEDURES

Sections:

- 17.83.010 Purpose and intent.
- 17.83.020 Definitions.
- 17.83.030 Implementation.
- 17.83.040 Types of incentives allowed.
- 17.83.050 Requirements for density bonus projects.
- 17.83.060 Development standards.
- 17.83.070 Processing of density bonus requests.
- 17.83.080 Density bonus housing agreement.
- 17.83.090 Changes in State density bonus laws.

17.83.010 Purpose and intent.

The purpose of this article is to provide incentives for the production of housing for very low income, lower income, moderate income and senior households in accordance with Government Code Sections 65915--65918. In enacting this article, it is the intent of the city to facilitate the development of affordable housing and to implement the goals, objectives, and policies of the housing element of the city's general plan.

(Ord. No. 1173, § 1, 3-25-2014)

17.83.020 Definitions.

Whenever the following terms are used in this article, they shall have the meanings established by this section:

A. "Affordable rent": Monthly housing expenses, including a reasonable allowance for utilities, for rental target units reserved for very low, lower, or moderate income households, not exceeding the following calculations:

1. Very low income. Unless otherwise provided by law, the product of thirty percent times fifty percent of the area median income adjusted for family size appropriate for the unit, divided by twelve.

2. Lower income. Unless otherwise provided by law, the product of thirty percent times sixty percent of the area median income adjusted for family size appropriate for the unit, divided by twelve.

3. Moderate income. Unless otherwise provided by law, the product of thirty percent times one hundred ten percent of the area median income adjusted for family size appropriate for the unit, divided by twelve.

B. "Affordable sales price": A sales price at which very low, lower, or moderate income households can qualify for the purchase of target units, calculated in accordance with Health and Safety Code Section 50052.5 and the regulations adopted by the California Department of Housing and Community Development pursuant to that section.

C. "Concession": This term shall have the same meaning as the term "Incentive" defined herein.

D. "Density bonus": A density increase of up to those percentages specified in this article above the otherwise maximum residential density.

E. "Density bonus housing agreement": A legally binding agreement between a developer of a housing development and the city, which ensures that the requirements of this article and the State density bonus law are satisfied. The agreement shall establish, among other things, the number of target units, their size, location, terms and conditions of affordability, and production schedule.

F. "Density bonus units": Those residential units granted pursuant to the provisions of this article that exceed the maximum residential density for the development site.

G. "Housing cost": The sum of actual or projected monthly payments for all of the following associated with for-sale target units: principal and interest on a mortgage loan, including any loan insurance fees, property taxes and assessments, fire and casualty insurance, property maintenance and repairs, home-owner association fees, and a reasonable allowance for utilities.

H. "Housing development": A construction project consisting of five or more residential units or lots, including single-family and multi-family units or lots.

I. "Incentive": A regulatory incentive or concession as defined in Government Code Section 65915(k) that may include, but not be limited to, the reduction of site development standards or a modification of zoning code requirements, approval of mixed-use zoning in conjunction with the housing development, or any other regulatory incentive which would result in identifiable cost avoidance or reductions, that are offered in addition to a density bonus.

J. "Lower income household": Household whose income does not exceed the lower income limits applicable to Los Angeles County, as published and periodically up-

dated by the State Department of Housing and Community Development pursuant to Health and Safety Code Section 50079.5.

K. "Maximum residential density": The maximum number of residential units permitted by the city's general plan land use element, applicable to the subject property at the time an application for the construction of a housing development is deemed complete by the city, excluding the additional density bonus units permitted by this article. If a range of density is permitted by the land use element, maximum residential density shall mean the maximum allowable density within the range of density.

L. "Moderate income household": Household whose income does not exceed the moderate income limits applicable to Los Angeles County, as published and periodically updated by the State Department of Housing and Community Development pursuant to Health and Safety Code Section 50093.

M. "Non-restricted units": All units within a housing development excluding the target units.

N. "Senior citizen housing" or "senior housing development": A senior citizen housing development, as defined in Sections 51.3 and 51.12 of the Civil Code, or a mobile home 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.

O. "Target unit": A dwelling unit within a housing development which will be reserved for sale or rent to, and affordable to, very low-, low-, or moderate-income households.

P. "Very low income household": Household whose income does not exceed the very low income limits applicable to Los Angeles County, as published and periodically updated by the State Department of Housing and Community Development pursuant to Health and Safety Code Section 50105.

(Ord. No. 1173, § 1, 3-25-2014)

17.83.030 Implementation.

A. The city shall grant a density bonus and incentives pursuant to subsections B. and C. herein, to an applicant who agrees to provide any of the following:

1. Very low income units. At least five percent of the total units of a housing development as target units affordable to very low income households;

2. Lower income units. At least ten percent of the total units of a housing development as target units affordable to lower income households;

3. Moderate income condominium units. At least ten percent of the total units of a condominium project, as defined in Civil Code Section 1351(f), or planned development, as defined in Civil Code Section 1351(k) as target units affordable to moderate income households;

4. Any senior housing development; or

B. In determining the number of density bonus units to be granted pursuant to this section, the density bonus for the site shall be computed as follows:

1. Very low income household. The maximum allowable residential density for the site shall be increased by twenty percent; provided, however, that for each one percent increase above five percent in the percentage of units made affordable to very low income households, the density bonus shall be increased by two and one-half percent up to a maximum density bonus of thirty-five percent;

2. Lower income household. The maximum allowable residential density for the site shall be increased by twenty percent; provided, however, that for each one percent increase above ten percent in the percentage of units made affordable to lower income households, the density bonus shall be increased by one and one-half percent up to a maximum density bonus of thirty-five percent;

3. Moderate income condominium. The maximum allowable residential density for the site shall be increased by five percent; provided, however, that for each one percent increase above ten percent of the percentage of units made affordable to moderate income households, the density bonus shall be increased by one percent up to a maximum density bonus of thirty-five percent;

4. Certain donations of land. When an applicant for a tentative subdivision map, parcel map, or other residential development approval donates land to the city that satisfies the requirements of Government Code Section 65915(g), and complies with all procedural requirements of that subsection, including recordation of a deed restriction, the maximum allowable residential density for the site shall be increased by fifteen percent; provided, however, that for each one percent increase above the minimum percentage of land required to be donated pursuant to Government Code Section 65915(g), the density bonus shall be

increased by one percent up to a maximum of thirty-five percent. This increase shall be in addition to any increase required by Section 17.83.030A of this article, up to a maximum combined density increase of thirty-five percent, if an applicant seeks both the increase required by this subsection and by Section 17.83.030A.

All density calculations resulting in fractional units shall be rounded up to the next whole number. The density bonus shall not be included when determining the percentage of target units. When calculating the required number of target units, any resulting fraction of units shall be deleted.

C. Number of incentives. The applicant shall receive the following number of incentives or concessions:

1. One incentive shall be provided to a developer who agrees to construct at least ten percent of the total units for lower income households, five percent of the total units for very low income households, or ten percent of units in a condominium for moderate income households.

2. Two incentives shall be provided to a developer who agrees to construct at least twenty percent of the total units for lower income households, ten percent of the total units for very low income households, or twenty percent of units in a condominium for moderate income households.

3. Three incentives shall be provided to a developer who agrees to construct at least thirty percent of the total units for lower income households, fifteen percent of the total units for very low income households, or thirty percent of units in a condominium for moderate income households. In cases where a density increase of more than the amount specified in Section 17.83.030B. is requested, the density increase, if granted, shall be considered an additional incentive.

D. In cases where the developer agrees to construct a housing development that qualifies for a density bonus pursuant to Section 17.83.030A. of this article, and that includes a childcare facility as defined in Government Code Section 65915(h)(4), the developer shall be entitled to either an additional density bonus that is an amount of square feet of residential space equal to or greater than the amount of square feet in the childcare facility, or an additional incentive described in Section 17.83.040 of this

article, that contributes significantly to the economic feasibility of the construction of the childcare facility. Any such childcare facility shall comply with the following:

1. The childcare facility shall remain in operation for a period of time that is as long or longer than the period of time during which the density bonus units are required to remain affordable;

2. 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 this article.

3. Notwithstanding the foregoing, the city shall not be required to provide a density bonus or incentive for a childcare facility when it is found, based upon substantial evidence, that the community has adequate childcare facilities.

(Ord. No. 1173, § 1, 3-25-2014)

17.83.040 Types of incentives allowed.

A. Incentives. If requested by the applicant, a qualifying project shall be entitled to the following incentives, the number of which shall be determined pursuant to Section 17.83.030C., unless the city makes the written findings required by Government Code Section 65915(d)(1):

1. Types of incentives. Incentives may include, but are not limited to, any of the following:

a. A reduction in site development standards which exceed the minimum building standards provided in Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code. These may include, but are not limited to, one or more of the following:

- i. Reduced minimum lot sizes and/or dimensions,
- ii. Reduced minimum lot setbacks,
- iii. Reduced minimum outdoor and/or private outdoor open space,
- iv. Increased maximum lot coverage,
- v. Increase maximum building height,
- vi. Reduced on-site parking standards,
- vii. Reduced minimum building separation requirements,

viii. Other site or construction conditions applicable to a residential development;

b. Mixed use zoning to allow the housing development to include nonresidential uses and/or allow the housing development to be within a nonresidential zone. Approval of mixed use activities in conjunction with the housing development if other land uses will reduce the cost of the housing development, and the other land uses are compatible with the housing development and the existing or planned development in the area, and is consistent with the general plan;

c. Another regulatory incentive or concession proposed by the applicant and agreed to by the city, that results in identifiable, financially sufficient, and actual cost reductions. Permissible incentives include direct financial aid (e.g., CAL Home, or other Federal or State housing funding) in the form of a loan or a grant to subsidize or provide low interest financing for on- or off-site improvements, land or construction costs;

d. A density bonus of more than thirty-five percent;

e. Waived, reduced or deferred plan check, construction permit and/or development impact fees (e.g., capital facilities, park, traffic, etc.).

2. Requirements.

a. Economic feasibility. Any development incentive granted shall contribute to the economic feasibility of providing the target units.

b. Waivers or modifications of development standards. In addition to any density bonus or incentives provided, an applicant may seek a waiver or modification of development standards that would physically preclude the construction of a housing development at the densities or with the incentives permitted by this article. The applicant may request a meeting with city staff to discuss the applicant's proposal for reduced development standards. The city may not apply any development standard that would physically preclude the construction of a housing development at the densities or with the incentives permitted by this article.

(Ord. No. 1173, § 1, 3-25-2014)

17.83.050 Requirements for density bonus projects.

A. The entry into and execution of the density bonus housing agreement shall be a condition of a discretionary

planning permit (e.g., tract maps, parcel maps, site plans, planned development or conditional use permits) or a ministerial building permit for a housing development proposed pursuant to this article. The agreement shall be recorded at the applicant's cost as a restriction running with the land on the parcel or parcels on which the target units will be constructed.

B. Target units shall remain restricted and be offered at affordable rents to the designated group for a period of forty-five years (or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program), or otherwise as provided by law.

C. In determining the maximum affordable rent or affordable sales price of target units, the following household and unit size assumptions shall be used, unless the housing development is subject to different assumptions imposed by other governmental regulations:

SRO (residential hotel) unit	75% of 1 person
Studio	1 person
1 bedroom	2 persons
2 bedroom	3 persons
3 bedroom	4 persons
4 bedroom	6 persons

D. An applicant shall agree that the initial occupants of the moderate income units in the condominium project are persons and families of moderate income, as defined in Health and Safety Code Section 50093.

E. Upon resale, the seller of the unit and the city shall share in the equity as follows:

1. The seller of the unit shall retain the value of any improvements, the down payment, and the seller's proportionate share of appreciation.

2. The city shall re-capture any initial subsidy and its proportionate share of appreciation, which shall then be used within five years for any of the purposes described in Health and Safety Code Section 33334.2(e) that promote homeownership.

3. For purposes of this subsection, the city's "proportionate share of appreciation" shall be equal to the ratio of the city's initial subsidy to the fair market value of the home at the time of the initial sale.

4. For purposes of this subsection, the city's "initial subsidy" shall be equal to the fair market value of the home at the time of the initial sale minus the initial sale price to the moderate income household, plus the amount of any down payment assistance or mortgage assistance. If upon resale the market value is lower than the initial market value, then the value at the time of resale shall be used as the initial market value.

F. All for-sale target units shall be occupied by their purchasers; no renting or subleasing shall be permitted. The purchaser shall remain on title as long as the purchaser owns the unit.

G. The owner of a rental development shall submit annually, and within thirty days of occupancy of a target rental unit, a certificate of compliance, which shall include the name, address, and income of each tenant occupying the target unit.

H. The owner of a rental development shall maintain and keep on file annual sworn and notarized income statements and current tax returns for all tenants occupying the target rental units.

I. The owner of a rental development shall provide to the city any additional information required by the city to ensure the long-term affordability of the target units by eligible households.

J. The city shall have the right to inspect the owner's project-related records at any reasonable time and shall be entitled to audit the owner's records once a year.

K. The city may establish fees associated with the setting up and monitoring of target units.
(Ord. No. 1173, § 1, 3-25-2014)

17.83.060 Development standards.

A. Target units shall be constructed concurrently with nonrestricted units unless both the city and the applicant agree within the density bonus housing agreement to an alternative schedule for development.

B. Target units shall be built on-site wherever possible and when practical, be dispersed within the housing development. Where feasible, the number of bedrooms of the target units shall be equivalent to the bedroom mix of the nontarget units of the housing development, except that the developer may include a higher proportion of target units with more bedrooms. The design and appearance of the target

units shall be compatible with the design of the total housing development. All housing developments shall comply with all applicable development standards, except those standards that may be modified as provided by this article. Deviations from these provisions may only be permitted as part of an approved density bonus housing agreement.

C. Circumstances may arise in which the public interest would be served by allowing some or all of the target units associated with one housing development to be produced and operated at an alternative development site. Where the applicant and the city form an agreement, the resulting linked developments shall be considered a single housing development for purposes of this article. Under these circumstances, the applicant shall be subject to the same requirements of this article for the target units to be provided on the alternative site.

D. Special parking requirements. Upon the request of the developer of a housing development qualifying for a density bonus pursuant to this article, the city shall permit vehicular parking ratios, inclusive of handicapped and guest parking, in accordance with the following standards:

1. 0--1 bedroom unit: One on-site open parking space;
2. 2--3 bedroom unit: Two on-site parking spaces (garage or covered parking);
3. 4 or more bedroom unit: Two and one-half parking spaces (garage or covered parking).

If the total number of parking spaces required for a housing development is other than a whole number, the number shall be rounded up to the next whole number. For purposes of this subsection, a housing development may provide "on-site parking" through tandem parking or uncovered parking, but not through on-street parking.

(Ord. No. 1173, § 1, 3-25-2014)

17.83.070 Processing of density bonus requests.

An application for a density bonus pursuant to this article shall be processed as part of the application for a housing development. An application for a housing development shall not be determined "complete" for purposes of Government Code Section 65920, et seq., unless and until the city council has given preliminary approval of the form and content of a density bonus housing agreement, which

complies with the provisions of this article. The process for obtaining preliminary approval of the density bonus shall be as follows:

A. Filing. An applicant proposing a housing development pursuant to this article shall submit an application for a density bonus as part of the submittal of any formal request for approval of a housing development. The application, whether a pre-application or a formal application, shall include:

1. A brief description of the proposed housing development, including the total number of units, target units, and density bonus units proposed;
2. The zoning and general plan designations and assessor's parcel number(s) of the project site;
3. A vicinity map and preliminary site plan, drawn to scale, including building footprints, driveways and parking layout; and
4. The number and nature of the incentives requested pursuant to this article.

B. Review of density bonus request.

1. Within ninety days of receipt of the application for a density bonus and a housing development, the city shall provide to an applicant a letter, which identifies project issues of concern, and the procedures for compliance with this article.

2. If additional incentives are requested, the director of community development shall inform the applicant that the requested additional incentives shall or shall not be recommended for consideration with the proposed housing development, or that alternative or modified incentives shall be recommended for consideration in lieu of the requested incentives. If the director of community development recommends alternative or modified incentives, the recommendation shall establish how the alternative or modified incentives can be expected to have an equivalent affordability effect as the requested incentives.

C. Approval.

1. The city shall approve a density bonus and requested incentives in conjunction with a discretionary planning permit or ministerial building permit for a housing development, if the application complies with the provisions of this article. The execution and recordation

of the density bonus housing agreement shall be a condition of approval of the discretionary planning permit or ministerial building permit.

(Ord. No. 1173, § 1, 3-25-2014)

17.83.080 Density bonus housing agreement.

A. The terms of the draft density bonus housing agreement (the "agreement") shall be reviewed and revised as appropriate by the director of community development and the city attorney who shall formulate a recommendation to the planning commission for review and the city council for final approval.

B. Following execution of the agreement by the applicant and the city, the completed agreement, or memorandum thereof, shall be recorded. The conditions contained in the agreement shall be filed and recorded on the parcel or parcels designated for the construction of target units as a condition of final map approval, or, where a map is not being processed, prior to issuance of building permits for such parcels or units. The agreement shall be binding upon all future owners and successors-in-interest for this property, which is the subject of the housing development application.

C. At a minimum, the agreement shall include the following:

1. The total number of units proposed within the housing development, including the number of target units;

2. A description of the household income group to be accommodated by the housing development, and the standards for determining the corresponding affordable rent or affordable sales price and housing cost;

3. The location, unit sizes (square feet) and number of bedrooms of target units;

4. Tenure of use restrictions for target units of at least forty-five years;

5. A schedule for completion and occupancy of target units;

6. A description of any additional incentive being provided by the city;

7. A description of remedies for breach of the agreement by either party (the city may identify tenants or qualified purchasers as third party beneficiaries under the agreement); and

8. Other provisions to ensure implementation and compliance with this article.

D. In the case of for-sale housing developments, the agreement shall provide for the following conditions governing the initial sale and use of target units during the applicable use restriction period:

1. Target units shall, upon initial sale, be sold to and occupied by eligible very low, lower, or in the case of a condominium, moderate income households at an affordable sales price and housing cost, or to qualified senior citizen residents (i.e. maintained as senior citizen housing) or to qualified veteran housing residents.

2. The initial purchaser of each target unit shall execute an instrument or agreement, approved by the city attorney, restricting the sale of the target unit in accordance with this article during the applicable use restriction period. Such instrument or agreement shall be recorded against the parcel containing the target unit and shall contain provisions as the city may require to ensure continued compliance with this article and the State density bonus law.

E. In the case of rental housing developments, the agreement shall provide for the following conditions governing the use of target units during the use restriction period:

1. The rules and procedures for qualifying tenants, establishing affordable rent, filling vacancies and the proper management and maintenance of target units for qualified tenants;

2. Provisions requiring owners to verify tenant incomes and maintain books and records to demonstrate compliance with this article; and

3. Provisions requiring owners to submit an annual report to the city, which includes the name, address and income of each person occupying target units, and which identifies the bedroom size and monthly rent or cost of each target unit.

(Ord. No. 1173, § 1, 3-25-2014)

17.83.090 Changes in State density bonus laws.

It is the intent of the city council that the provisions of this article shall be interpreted so as to fulfill the requirements of Government Code Section 65915 et seq., notwithstanding changes in State laws revising percentages,

numerical thresholds and/or other standards applicable to the granting of density bonuses or related incentives that may occur after the effective date of this article. Accordingly, it is the further intent of the city council that any such changed percentages, numerical thresholds or other standards shall be deemed to supersede and govern any conflicting percentages, numerical thresholds or other standards contained in this article, to the maximum extent permitted by law.

(Ord. No. 1173, § 1, 3-25-2014)