



DISCLAIMER: This document is intended solely as a technical overview of Density Bonus requirements. It is not legal advice regarding any jurisdiction's specific policies or any proposed housing development project. Local staff should consult with their city attorney or county counsel regarding this document.

Density Bonus Model Program Guidelines

These Density Bonus Model Program Guidelines are intended for internal staff use and/or as a resource for applicants for density bonuses, waivers, concessions, and parking reductions. They are meant to be revised or amended more easily than a density bonus ordinance as the Legislature amends state density bonus law almost every year. Throughout the document be sure to replace [City/County] with your jurisdiction name. Contact your city attorney or county counsel to determine whether formal Council or Board action is required to adopt these Guidelines either for use by staff or as a resource for the public. These Guidelines are effective January 1, 2024, but have been updated as of April 2025 to account for AB 2694 (2024) and AB 3116 (2024), which amended state density bonus law related to residential care facilities for the elderly and student housing developments, respectively.

*[Note: Some provisions in this document do not apply to all cities and counties, and some provisions are optional. These are shown as **notes** and are bracketed in green italics. Each agency should evaluate based on location conditions.]*

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I. Introduction

California’s Density Bonus Law (codified at Government Code Sections 65915 et seq.) aims to encourage the development of affordable housing by providing housing developers with certain incentives. These incentives include increases in density above the maximum allowed on the site by the local zoning, reductions in local parking standards, concessions to reduce project costs and reductions or waivers of applicable development standards.

The [City/County] is both responsible for implementing and obligated to implement the provisions of State Density Bonus Law. To fulfill its obligations under State Density Bonus Law, the [City/County] has adopted [Chapter XX] of the Municipal Code. The purpose of these Density Bonus Program Guidelines (“Guidelines”) is to provide administrative guidance for implementation of the State Density Bonus Law and the [City/County]’s Density Bonus Ordinance.

State Density Bonus Law has been and likely will be modified in the future by the State Legislature. Where conflicts between state law, the [City/County] Code, and this document arise, State Density Bonus Law shall control, followed by the [City/County] Code as clarified in these guidelines.

When using these Guidelines, users must check the referenced code sections for additional detail and requirements. State Density Bonus Law is lengthy and complex and is amended almost every year. These Guidelines only summarize relevant provisions and are meant only to aid users in complying with applicable state and local laws.

Unless otherwise noted, all references are to the Government Code. Statutory references below incorporate successor provisions.

These Guidelines are not comprehensive. The [City/County] reserves the right to change these Guidelines with no notice. Please check back regularly to ensure that you are using the latest version of these Guidelines. LAST UPDATED: [date]

II. Definitions

A. State Bonus Law Definitions

Affordable Rent. Affordable Rent, including a reasonable utility allowance, shall not exceed the following:

- a. For very low-income households, one twelfth of the product of 30 percent times 50 percent of the area median income adjusted for assumed household size; or
- b. For lower-income households whose gross incomes exceed the maximum income for very low-income households, one twelfth of the product of 30 percent times 60 percent of the area median income adjusted for assumed household size. (Section 65915(c)(1)(B)(i); Health & Safety Code Section 50053; 25 CCR Section 6918.)
- c. For moderate-income households, one twelfth of the product of 30 percent times 110 percent of the area median income adjusted for assumed household size. (Health & Safety Code Section 50053.)
- d. For a project where 100 percent of the units, including bonus units and excluding a manager's unit, are for lower-income households (except that 20 percent of the units may be for moderate-income households), rents for at least 20 percent of the units must be set at affordable rent as defined above, and the rents for the remainder of the units cannot exceed those for lower-income households as set by the California Tax Credit Allocation Committee. (Section 65915(c)(1)(B)(ii).)

Affordable Housing Cost. The maximum purchase price where monthly payments, after a reasonable down payment, and including interest, principal, mortgage insurance, property taxes, homeowner's insurance, homeowner's association fees, space rent (if any), a reasonable utility allowance, and a reasonable allowance for property maintenance and repairs, do not exceed the following:

- a. For very low-income households, one twelfth of the product of 30 percent times 50 percent of the area median income adjusted for assumed household size.
- b. For lower-income households whose gross incomes exceed the maximum income for very low-income households, one twelfth of the product of 30 percent times 70 percent of the area median income adjusted for assumed household size.
- c. For moderate-income households, one twelfth of the product of 35 percent times 110 percent of area median income adjusted for assumed household size. (Section 65915(c)(2)(A)(i); Health & Safety Code Section 50052.5; 25 CCR Section 6920.)

Area Median Income. The median family income in [County], adjusted for household size, as published annually in the California Code of Regulations, Title 25, Section 6932, or successor provision, by the California Department of Housing and Community Development.

Assumed Household Size. One person for a studio; two persons for a one-bedroom unit; three persons for a two-bedroom unit; and one additional person for each additional bedroom.

Childcare Facility. A child daycare facility other than a family daycare home, including, but not limited to, infant centers, preschools, extended daycare facilities, and school age childcare centers, or as otherwise defined in Section 65915(h)(4).

Concessions (Incentives). A concession or incentive as defined in Section 65915(k).

Density Bonus. As defined in Sections 65915(f) and 65915.5(b).

Development Bonus. A mutually agreed upon incentive between a commercial developer and the [City/County] for the commercial developer's provision of housing pursuant to Section 65915.7.

Development Standard. A site or construction condition, including, but not limited to, a height limitation, setback requirement, floor area ratio, an onsite open-space requirement, a minimum lot area per unit 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 that is adopted by the local government or that is enacted by the local government's electorate exercising its local initiative or referendum power, whether that power is derived from the California Constitution, statute, or the charter or ordinances of the local government., or otherwise as defined in Section 65915(o)(2).

Disabled Veteran. Any veteran who is currently declared by the United States Veterans Administration to be ten percent or more disabled as a result of service in the armed forces, or as otherwise defined in Section 18541.

Homeless Person. A "homeless person" as defined in the federal McKinney-Vento Homeless Assistance Act and codified at 42 U.S.C. Section 11302(a).

Housing Development. As defined in Section 65915(i).

Located Within One-Half Mile of a Major Transit Stop. As defined in Section 65915(o)(3).

Lower-Income Household. A household whose income does not exceed the qualifying limits for lower-income households applicable to [County], as published annually in the California Code of Regulations, Title 25, Section 6932, or successor provision, by the California Department of Housing and Community Development. Lower-income households include very low-income households and extremely low-income households. (Section 65915(b)(1)(A); Health & Safety Code Section 50079.5.)

Lower-Income Student. As defined in Section 65915(o)(4).

Major Transit Stop. A site containing any of the following or where one of the following is included in the [Regional Transportation Plan]:

- a. A rail or bus rapid transit station;
- b. A ferry terminal served by either a bus or rail transit service; or
- c. An intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods. (Section 65915(o)(5); Public Resources Code Sections 21155(b) and 21064.3.)

Maximum Allowable Residential Density. As defined in Section 65915(o)(6). (Please note: the definition of Maximum Allowable Residential Density was most recently changed by Assembly Bill 1287 (2023).) The Maximum Allowable Residential Density shall be referred to as “**Base Density**” throughout these Guidelines.

Moderate Income Household. A household whose income exceeds the income limit for lower-income households but whose income does not exceed the qualifying limits for moderate income households applicable to [County], as published annually in the California Code of Regulations, Title 25, Section 6932, or successor provision, by the California Department of Housing and Community Development. (Section 65915(b)(1)(D); Health & Safety Code Section 50093.)

Qualified Nonprofit Housing Corporation. As defined in Section 65915(c)(1)(B).

Senior Citizen Housing Development. A senior citizen housing development as defined in Civil Code Sections 51.3 and 51.12, requiring at least 35 dwelling units; or a mobile home park that limits residency based on age for older persons under Civil Code Sections 798.76 or 799.5. For the purposes of a senior citizen housing development, “development” includes a shared housing development and a residential care facility for the elderly as defined in Health and Safety Code Section 1569.2. (Section 65915(b)(1)(C).)

Shared Housing Building. As defined in Section 65915(o)(7)(A).

Shared Housing Unit. As defined in Section 65915(o)(7)(B). *[Note: a local ordinance may further restrict the attributes of a shared housing unit so long as it does not conflict with the definition in the statute.]*

Student Housing Development. A development that contains bedrooms containing two or more bedspaces that have a shared or private bathroom, access to a shared or private living room and laundry facilities, and access to a shared or private kitchen.

Total Units or Total Dwelling Units or Base Units. As “total units” and “total dwelling units” are defined in Section 65915(o)(8).

Transitional Foster Youth. A person in California whose dependency was established and continued by a court of competent jurisdiction, including a tribal court, on or after the youth’s 13th birthday and who is no older than 25 years of age at the commencement of the academic year, or as otherwise defined in Section 66025.9 of the Education Code. (Section 65915(b)(1)(E).)

Very Low-Income Household. A household whose income does not exceed the qualifying limits for very low-income families applicable to [County], as published annually in the California Code of Regulations, Title 25, Section 6932, or successor provision, by the California Department of Housing and Community Development. (Section 65915(b)(1)(A); Health & Safety Code Section 50079.5.)

Very Low Vehicle Travel Area. As defined in Section 65915(o)(9). *[Note: this definition of very low vehicle travel area is only needed in “designated counties,” as listed in Section 65915 (o)(1) which includes all Bay Area counties.]*

Waiver. A Waiver or reduction of a development standard that would have the effect of physically precluding the construction of a development eligible for a density bonus at the density or with the incentives permitted by Section 65915. (Section 65915(e)(1).)

III. Eligibility for Density Bonuses

A housing development may be eligible for a density bonus when it meets the following minimum criteria:

1. The base units (units proposed excluding any density bonus units) equal at least five dwelling units. See example below.
2. The housing development as proposed is eligible for a density bonus as outlined in this section.
3. If the housing development seeks to demolish any existing dwelling units on the site, or any units were demolished on the site in the five years preceding the application, then the project must also meet the replacement housing requirements described in below in section III.E.

The percentage of affordable units required to establish eligibility for a density bonus is a percentage of the “base units” (referenced as “total units” in the statute; see Section 65915(o)(8)). These are the units proposed in the housing development **excluding** any units added by a density bonus.

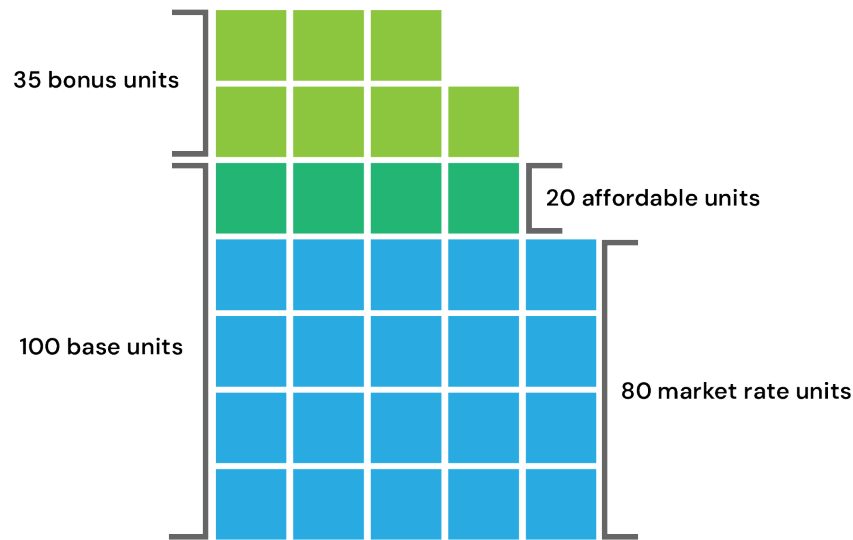
A. Basic Eligibility Requirements

The most common eligibility requirements are listed in Table III.1. (Section 65915(b)(1)(A-D and G.)

Table III.1. Basic Eligibility Requirements

Eligible Housing Type	Basic Eligibility Requirements
Very Low-Income Units	At least five percent of the base units must be dedicated to very low-income households.
Lower-Income Units	At least 10 percent of the base units must be dedicated to lower-income households (which include very low-income and low-income households).
Moderate-Income Units (For-Sale Projects Only)	At least 10 percent of the base units must be dedicated to moderate income households, provided all of the units in the development are offered to the public for purchase.
Senior Citizen Housing Development	Project meets the definition of a senior citizen housing development. No affordable housing required.
100 percent Affordable Housing	All units, including both the total units and the density bonus units but excluding any manager's unit(s), are dedicated to moderate-or-lower income.

Example: A project that proposes 100 base units (total units), 20 of which are affordable at low-income, is allowed to build 35 bonus units if it meets all eligibility requirements.



B. Donation of Land (Section 69515(g))

An applicant for a housing development may qualify for a density bonus by donating land if all of the following conditions are met:

- The applicant donates and transfers the land on or before the date of approval of the final subdivision map, parcel map, or residential development application.
- The developable acreage and zoning classification of the land being donated and transferred are both sufficient to permit construction of units affordable to very low-income households in an amount at least equal to **10 percent of the number of residential units of the proposed housing development.**
- The transferred land is at least one acre 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 default density under Housing Element Law, and will be served by adequate public facilities and infrastructure.

[Note: Jurisdiction may want to replace the phrase regarding “default density” with that existing in the community, e.g., 20 or 30 units per acre.]

- The transferred land must have all of the permits and approvals, except building permits, necessary for the development of very low-income units not later than the date of approval of the final subdivision map, parcel map, or residential development application, except that the [City/County] may require design review of the proposed development to the extent

permitted by Government Code Section 65583.2(i) if the design has not been approved before the property is transferred.

- Both the transferred land and the affordable units must be subject to a recorded deed restriction ensuring the continued affordability of the units as required by Section F of this Section III, recorded at the time of property transfer.
- The land must be transferred either to the [City/County] or to a housing developer approved by the [City/County].
- The transferred land must be within the boundary of the proposed housing development, or, if the [City/County] agrees, within one-quarter mile of the housing development.
- A proposed source of funding for the development of the very low-income units must be identified not later than the date of approval of the final subdivision map, parcel map, or residential development application for the housing development.

C. Special Development Types

A housing development project may be eligible for a density bonus if it proposes to set aside units affordable to the following targeted populations: transitional foster youth, disabled veterans, homeless individuals and households, or low-income students, or where it proposes to construct an on-site childcare facility or shared housing; or convert rental housing to a condominium.

Table III.2. Special Development Types

Eligible Development Type	Minimum Eligibility Requirements
Transitional Foster Youth, Disabled Veterans, or Homeless Persons Section 65915(b)(1)(E)	At least 10 percent of the base units must be dedicated to transitional foster youth, disabled veterans, or homeless persons at the same level of affordability as very low-income units.

Eligible Development Type	Minimum Eligibility Requirements
<p>Student Housing Development Section 65915(b)(1)(F)</p>	<p>At least 20 percent of the base units must be dedicated to lower-income students with rents calculated at 30 percent of 65 percent of area median income for a <i>single-room occupancy unit type</i>. All units in the student housing development must be occupied by students who are enrolled currently or in the past six months in at least six units at a higher education institution. To ensure compliance with this requirement, owner must enter into an agreement with the university or college to rent all units to students or establish a system for confirming its renters' status as students from an institute of higher education to ensure that all units are occupied by students. One rental bed and its pro rata share of the common area is considered a "unit." Any rental bed reserved for lower income students cannot be tied to a specific bedroom. Priority for the affordable units must be provided for lower-income students experiencing homelessness. For projects with greater than 35 percent density bonus, the student housing development cannot be located on a site that would require replacement units.</p>
<p>Shared Housing Building Section 65915(o)(7)</p>	<p>Eligibility is calculated as in Table III.1, but a "shared housing unit" consists of a room not within another dwelling unit that includes a bathroom, sink, refrigerator, and microwave.</p>
<p>Condominium Conversion Section 65915.5</p>	<p>At least 33 percent of the total units¹ must be set aside for lower- or moderate-income households, or at least 15 percent of the total units are set aside for lower-income households. See Section 65915.5 for other requirements.</p>

¹ In this section, "total units" appears to include any bonus units.

Eligible Development Type	Minimum Eligibility Requirements
<p>Childcare Facility Section 65915(h)</p>	<p>Construction of childcare facility on or adjacent to the housing development, which shall remain operative for at least as long as density bonus units are to remain affordable. Children who attend the childcare facility, children of very low-, low-, or moderate-income households must be at least equal the percentage of dwelling units required for those types of households in the housing development.</p>

D. Commercial Development Bonus (Section 65915.7)

A commercial development may be eligible for a development bonus where the commercial developer partners with an affordable housing developer to construct affordable housing on the commercial project site, or offsite elsewhere in the [City/County] located near schools and employment centers and within one-half mile of a major transit stop.

The commercial developer may participate through the donation of land or funds for the affordable housing, or through direct construction of the housing units.

To be eligible for a development bonus, at least **30 percent** of the housing units must be set aside for lower-income households or **15 percent** of the housing units must be set aside for very low-income households.

E. Replacement Housing Requirements (Section 65915(c)(3))

A housing development is not eligible for a density bonus, incentives, waivers, or parking reductions unless it “replaces” any rental housing that existed on the site in the past five years. These replacement housing requirements apply to any project requesting a density bonus regardless of the applicability of the Housing Crisis Act of 2019. (Section 66300.) **Please note, however, that if the housing development is subject to the provisions of the Housing Crisis Act, additional benefits are available to any lower-income households residing on the site, including relocation payments and a right of first return to an affordable unit. Other benefits are available to all tenants. See Section 66300.5.**

Replacement housing requirements in Density Bonus Law do not apply to density bonus projects that propose to develop projects where 100 percent of the units are affordable to lower-income households (although these projects are subject to certain provisions of the Housing Crisis Act of 2019). They also do

not apply to any density bonus applications that were submitted to or processed by the [City/County] prior to January 1, 2015.

For student housing development projects with greater than a 35 percent density bonus, the student housing development cannot be located on a site that would require replacement units.

Density Bonus Protected Units

Certain units that either now exist or that existed on the site in the last five years preceding submission of the development application must be replaced. These units are those that are, or have been at any time during the last five years preceding submission of the development application:

1. Subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of lower- or very low-income; or
2. Subject to some form of rent or price control through a public entity's valid exercise of its police power; or
3. Occupied by lower- or very low-income households.

Collectively, these units are referred to as "Density Bonus Protected Units."

Replacement Requirement(s)

If the housing development proposes to demolish one or more Density Bonus Protected Units, or if one was demolished in the past five years, they must be "replaced" in accordance with the requirements below. **Replacement units may qualify a project for a density bonus and may satisfy the City/County's inclusionary housing requirement, so long as the replacement units meet the requirements under both Density Bonus law and/or the Inclusionary Housing Ordinance.**

Occupied; Incomes Known. If the Density Bonus Protected Units are occupied at the time of submission of the density bonus application and the incomes of the households occupying the Density Bonus Protected Units are known, the proposed housing development must 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.

Occupied; Incomes Unknown. If the Density Bonus Protected Units are occupied at the time of submission of the density bonus application but the incomes of the households occupying the Density Bonus Protected Units are not known, very low- and low-income households are (rebuttably) presumed to occupy the units in the same proportion as shown for renter households in the Department of Housing and Urban Development's (HUD) [Comprehensive Housing Affordability Strategy \(CHAS\) database](#). The housing development must provide units at affordable rent or affordable housing cost to

be occupied by very low- and lower-income households in the same proportion as indicated by the CHAS data. All fractions must be rounded up.

Example: A project proposes to demolish 20 existing units. The incomes of 10 tenant households are known. Five of these units are occupied by very low-income households and five units by higher-income households.

For the 10 units where the household incomes are unknown, the CHAS data shows that [25] percent of the renter households in the [City/County] are very low-income, and [10] percent are low-income. [10] percent of 10 units = [1] low-income unit; [25] percent of 10 units = [2.5] very low-income units, which must be rounded up to [3] units.

Therefore, the new project must include at least [8] very low-income units (5 known very low-income households and [3] assumed) and [6] low-income units (5 known low-income households and [1] assumed) as replacement units. The developer could also elect to replace the required low-income units with very low-income units.

[Note: For the example above, look up and insert the local CHAS data and modify calculations accordingly. Check for updates in CHAS data; these coincide with American Community Survey (ACS) data releases.]

Demolished and/or Vacated; Incomes Known. For Density Bonus Protected Units that were demolished or vacated in the last five years and the incomes of the last households in occupancy are known, the proposed housing development must 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 the last household(s) in occupancy.

Demolished and/or Vacated; Incomes Unknown. For Density Bonus Protected Units that were demolished or vacated in the last five years and the incomes of the last households in occupancy are not known, lower-income households are (rebuttably) presumed to have occupied the units in the same proportion as lower-income households rent units in the jurisdiction as shown in the HUD's CHAS database. The proposed housing development must provide units at affordable rent or affordable housing cost to and occupied by lower-income households in the same proportion as indicated by the CHAS data. All fractions must be rounded up.

Rent- or Price-Controlled and Occupied by Above Lower-income Households. For Density Bonus Protected Units that were subject to a [City/County]'s rent- or price-control in the last five years and are or were occupied by households whose incomes exceeded lower-income limits,

[Note: choose to do either of the following]:

- i. Require that the replacement units be made available at an affordable rent or affordable housing cost to, and occupied by, a low-income household; or
- ii. Require that the replacement units be subject to the [City/County]'s rent- or price-control ordinance.

*[Note: If the jurisdiction has a **local** rent control ordinance, it should indicate the jurisdiction's policy here. If there is no local rent control ordinance, the replacement requirements are the same as those listed above.]*

Requirements for Replacement Units

Equivalent Size. Regardless of which of the above-mentioned categories the units fall into, the development must provide at least the same number of units of "equivalent size" as the units replaced, to be offered at an affordable rent or affordable housing cost. "Equivalent size" means that the replacement units contain at least the same total number of bedrooms as the units being replaced.

Example 1: One three-bedroom unit could be replaced by three one-bedroom units, or one two-bedroom unit and one one-bedroom unit. However, three one-bedroom units could NOT be replaced with one three-bedroom unit, because the *number* of units must at least equal the number of units that need to be replaced.

Example 2: In the scenario where one three-bedroom unit is replaced by three one-bedroom units, all three of the one-bedroom units would need to be offered at the appropriate level of affordability.

Replacement Unit Type. The units may be of any type (apartments, accessory dwelling units, townhomes, condominiums, duplexes, etc.) and may be for sale or for rent.

Deed Restrictions Recorded. Deed restrictions must be recorded restricting affordable replacement units, in accordance with the following:

Rental Replacement Units. Rental replacement units must be subject to a deed restriction limiting occupancy to lower-income households at affordable rents for 55 years.

For-Sale Replacement Units. For-sale replacement units must be sold to lower-income buyers at affordable housing cost and be subject to an equity-sharing agreement requiring that any profits at sale be shared with the [City/County].

F. Required Income and Rent Levels and Term of Affordability

Maximum Incomes

Maximum income for each income level (very low, low, and moderate) for the affordable units is determined using the most recent [Official State Income Limits](#) published annually for each County by the California Department of Housing and Community Development (HCD). Income levels in place at the time of this publication for [County] are shown in Table III.3, and the most up-to-date levels can be found on [HCD's website](#) (Section 65915(b).)

Table III.3 Current Income Levels for the [City/County]

[Note: The below is a placeholder table – replace with table applicable to [City/County] for current year]

Number of Persons in Household:		1	2	3	4	5	6	7	8
San Bernardino County Area Median Income: \$87,400	Acutely Low	9150	10500	11800	13100	14150	15200	16250	17300
	Extremely Low	18500	21150	23800	27750	32470	37190	41910	46630
	Very Low Income	30800	35200	39600	44000	47550	51050	54600	58100
	Low Income	49300	56350	63400	70400	76050	81700	87300	92950
	Median Income	61200	69900	78650	87400	94400	101400	108400	115350
	Moderate Income	73450	83900	94400	104900	113300	121700	130100	138450
San Diego County Area Median Income: \$106,900	Acutely Low	11250	12850	14450	16050	17350	18600	19900	21200
	Extremely Low	27350	31250	35150	39050	42200	45300	48450	51550
	Very Low Income	45550	52050	58550	65050	70300	75500	80700	85900
	Low Income	72900	83300	93700	104100	112450	120800	129100	137450
	Median Income	74850	85500	96200	106900	115450	124000	132550	141100
	Moderate Income	89800	102650	115450	128300	138550	148850	159100	169350
San Francisco County Area Median Income: \$166,000	Acutely Low	17450	19900	22400	24900	26900	28900	30900	32850
	Extremely Low	39150	44750	50350	55900	60400	64850	69350	73800
	Very Low Income	65250	74600	83900	93200	100700	108150	115600	123050
	Low Income	104400	119300	134200	149100	161050	173000	184900	196850
	Median Income	116200	132800	149400	166000	179300	192550	205850	219100
	Moderate Income	139450	159350	179300	199200	215150	231050	247000	262950

Calculating Affordable Rent and Affordable Housing Cost

Affordable rent and affordable housing cost are calculated as outlined in paragraphs (1) and (2), respectively, of Section II.A, Definitions of these Program Guidelines. (Sections 65915(c)(1)(B)(i) and 65915(c)(2)(A)(i).)

Calculating Affordable Rent in 100 Percent Affordable Projects (Section 65915(c)(1)(B)(ii))

Where the housing development is a 100 percent lower-income project (excluding managers' units), the applicant must calculate the rents for at least 20 percent of the units in the housing development project based on the definition of "affordable rent" in the Health and Safety Code. These units may be offered at either lower- or moderate-income rents. Up to 80 percent of the units in the housing development may utilize lower-income rents established by the California Tax Credit Allocation Committee (CTCAC). [CTCAC rent limits](#) are published annually.

[Note: If the applicant is receiving funding for a 100 percent affordable project from a source that requires household income or affordable rent to be calculated a manner that is different from either the Health and Safety Code or CTCAC, the applicant should consider whether the housing development will be able to meet the requirements of the funding source(s) and State Density Bonus Law.]

Term of Affordability

Rental Units: Rental units that qualify a housing development for a density bonus must be occupied by very low-income or lower-income households, as applicable, and are subject to a term of affordability of at least 55 years, or longer if required by a construction or mortgage financing program, mortgage insurance program, or rental subsidy program. (Section 65915(c)(1)(A).)

For-Sale Units: For-sale units that qualify a housing development for a density bonus shall initially be sold to and occupied by a very low-, low-, or moderate-income household at an affordable housing cost. (Section 65915(c)(2)(A)(i).)

If the unit is not purchased by an income-qualified household within 180 days after the issuance of the certificate of occupancy, then it must be sold pursuant to a contract that satisfies the requirements of Revenue & Taxation Code Section 402.1(a)(10) to a qualified nonprofit housing corporation that meets all of the requirements of Sections 65915(c)(2)(A)(ii) and (B).

- In either case, the unit shall either be: Subject to an equity sharing agreement with the [City/County] as described in Section 65915(c)(2)(C); or
- Subject to the requirements of another public funding source or law, such as a local law requiring a term of affordability; [City/County] should indicate here whether it uses equity

shares, or whether its local ordinance requires long-term affordability for for-sale units.]
(Section 65915(c)(2)(C)).

Student Housing Development: Units in a student housing development that qualify the development for a density bonus must be occupied by lower-income students and are subject to a term of affordability of at least 55 years. However, the affordability restriction may not tie any rental bed reserved for lower income students to a specific bedroom.

G. Relation to Inclusionary Ordinance

[Note: Use this section if the jurisdiction has an inclusionary ordinance]

Residential development in the [City/County] is subject to the Inclusionary Housing Ordinance, as codified at [City/County Code Section]. The Inclusionary Housing Ordinance requires that [XX] percent of the units in a housing development be affordable to [extremely low-, very low-, low-, or moderate-income households]. Actual developed units in a housing development that are set aside for [very low-, low- or moderate-income households] to qualify the project for a density bonus shall count towards meeting the project's obligations under the [City/County]'s Inclusionary Housing Ordinance, and units required to satisfy the Inclusionary Ordinance shall qualify a housing development for a density bonus, provided that the units meet the requirements of both the Inclusionary Housing Ordinance and State Density Bonus Law. Payment of an inclusionary in-lieu fee does not count towards Density Bonus under State law [city or county may allow this].

[Note: The jurisdiction may want to explain additional requirements of the inclusionary program or refer to another document].

IV. Density Bonuses

A. Density Bonus Percentages

Housing developments are eligible for a density bonus where they meet or exceed the minimum eligibility requirements described in Section III. Development projects that provide more than the minimum required percentage of very low-, low-, or moderate-income housing may be entitled to a greater density bonus.

However, except in the case of a land donation, **the density bonus must be selected from only one of the categories listed** in Section 65915(b)(1) and shown in the tables below. For instance, bonuses for lower-income and senior units cannot be combined, even if the housing development includes lower-income senior units; the applicant must choose whether to claim the lower-income bonus or the senior bonus. (Section 65915(b)(2).)

Table IV.1 Density Bonus for Very Low-, Low- and Moderate-Income Units

Percentage of Units	Very Low-Income Percentage Density Bonus (Section 65915(f)(2))	Low-Income Percentage Density Bonus (Section 65915(f)(1))	Moderate-Income Percentage Density Bonus (Section 65915(f)(4))
5	20	-	-
6	22.5	-	-
7	25	-	-
8	27.5	-	-
9	30	-	-
10	32.5	20	5
11	35	21.5	6
12	38.75	23	7
13	42.5	24.5	8
14	46.25	26	9
15	50	27.5	10
16	-	29	11
17	-	30.5	12
18	-	32	13
19	-	33.5	14
20	-	35	15
21	-	38.75	16
22	-	42.5	17
23	-	46.25	18
24	-	50	19
25	-	-	20
26	-	-	21

Percentage of Units	Very Low-Income Percentage Density Bonus (Section 65915(f)(2))	Low-Income Percentage Density Bonus (Section 65915(f)(1))	Moderate-Income Percentage Density Bonus (Section 65915(f)(4))
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

Percentage of Units	Very Low-Income Percentage Density Bonus (Section 65915(f)(2))	Low-Income Percentage Density Bonus (Section 65915(f)(1))	Moderate-Income Percentage Density Bonus (Section 65915(f)(4))
100	80 percent of lower-income units or no maximum if within one-half mile of a major transit stop or very low-income VMT area ²	80 percent of lower-income units or no maximum if within one-half mile of a major transit stop or very low-income VMT area ²	-

Density Bonuses for Senior Citizens Housing Developments (Section 65915(f)(3)(A))

A senior citizens housing development is eligible for density bonus of 20 percent of the number of senior units. No income or affordability restrictions are associated with this density bonus.

Density Bonuses for 100 Percent Affordable Projects (Section 65915(f)(3)(D))

A housing development with 100 percent of the units, exclusive of the manager’s unit(s), set aside as housing for lower-income households is eligible for an 80 percent density bonus. However, if 20 percent of the units are set aside for moderate-income households, the bonus is calculated on the lower-income units only (resulting in a bonus of 64 percent for the entire project). However, there are no density limits on 100 percent affordable projects located either (1) within one-half mile of a major transit stop or (2) in a very low vehicle travel area within the [City/County].

Additional Density Bonuses for Additional Units (Section 65915(v))

A housing development project is eligible for an additional density bonus, as shown in Table IV.2 below, where the housing development project does all of the following:

1. The housing development project would not restrict more than 50 percent of the total units to moderate-income, lower-income, or very low-income households;

² Only in “designed counties.”

2. The housing development project does any of the following: (i) provides 24 percent of the total units to lower-income households; (ii) provides 15 percent of the total units to very low-income households, or (iii) provides 44 percent of the total units to moderate-income households; and
3. The housing development project would provide five to 10 percent additional very low-income units, or five to 15 percent additional moderate-income units.

Table IV.2 Additional Density Bonus for Very Low- and Moderate-Income Units (Section 65915(v)(2))

Percentage of Units	Very Low-Income Percentage Density Bonus	Moderate-Income Percentage Density Bonus
5	20	20
6	23.75	22.5
7	27.5	25
8	31.25	27.5
9	35	30
10	38.75	32.5
11	-	35
12	-	38.75
13	-	42.5
14	-	46.25
15	-	50

Example: A housing development project with 25 percent very low-income units (15 percent plus 10 percent) is entitled to a total density bonus of 88.75 percent (50 percent bonus for 15 percent very low-income, plus 38.75 percent bonus for an additional 10 percent very low-income).

Density Bonuses for Donations of Land (Section 65915(g)(1))

If an applicant donates land for a housing development as described in Section III.B above, the applicant shall be entitled to a density bonus based on the number of affordable units that may be accommodated on the donated land, as a percentage of the total units in the housing development. For instance, if base density of the housing development is 400 units, and the donated land accommodates

40 very low-income units, the percentage of affordable units would be calculated as 10 percent of the housing development.

The density bonus allowed for land donation may be added to any other density bonus, up to a maximum of 35 percent. For instance, if a market-rate senior project were entitled to a 20 percent density bonus, and a land donation entitled the developer to an additional bonus of 15 percent, the senior project as a whole would be entitled to a 35 percent bonus.

Table IV.3 Density Bonus for Land Donation

Percentage of Base Units for Moderate-Income Units	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

Percentage of Base Units for Moderate-Income Units	Percentage Density Bonus
28	33
29	34
30	35

Other Types of Density Bonuses

Table IV.4 Special Housing Types

Eligible Development Type	Density Bonus
Transitional Foster Youth, Disabled Veterans, and Homeless Persons Section 65915(f)(3)(B)	20 percent of the total number of units in the housing development set aside for transitional foster youth, disabled veterans, or homeless persons.
Student Housing Development Section 65915(f)(3)(C)	<p>The maximum density bonus depends on the percentage of lower-income units, as outlined below:</p> <p>20% lower-income units: 35% density bonus 21% lower-income units: 38.75% density bonus 22% lower-income units: 42.5% density bonus 23% lower-income units: 46.25% density bonus 24% lower-income units: 50% density bonus</p> <p>If the project receives more than a 35 percent density bonus, the student development cannot be located on a site that would require replacement housing.</p>

Eligible Development Type	Density Bonus
Shared Housing Building Sections 65915(o)(7), (o)(8)(B)	Percent bonus is calculated as in the previous tables in this Section IV, but a “shared housing unit” consists of a room not within another dwelling unit that includes a bathroom, sink, refrigerator, and microwave. A “unit” for bonus purposes means one shared housing unit and its pro rata share of common area facilities.
Condominium Conversion Section 65915.5	Project may receive either of the following: (a) 25 percent of the total apartments to be provided in existing structure(s) proposed for conversion; OR (b) “Other incentives of equivalent financial value.”
Childcare Facility Section 65915(h)(1)	Additional square feet of residential space that is equal to or greater than the amount of square feet in the childcare facility plus one additional concession or incentive that contributes significantly to the economic feasibility of the childcare facility.
Commercial Development Bonus Section 65915.7(b)	As mutually agreed between the [City/County] and the developer. Various options listed in statute.

B. Calculating the Bonus Units

The density bonus allowed for a housing development is the percentage increase in the number of housing units allowed over the “otherwise maximum allowable gross residential density,” also called the “base density.” (Sections 65915(f); 65915(o)(6).)³ The base density may be calculated in two ways: using dwelling units per acre; or, if no maximum density is specified, determining the density of a “base project” as described below.

³ Note that while Section 65915(o)(6) defines “maximum allowable residential density,” there is no definition of “maximum allowable gross residential density” in the statute. Communities may want to define the terms as equivalent in their local ordinance or in any guidelines.

All density that results in a fractional number must be **rounded up to next whole number**. This applies to the base density; to the density bonus; and to the number of affordable units required to qualify the housing development for a density bonus. (Section 65915(q).)

Maximum Allowable Residential Density – Density Determined by Dwelling Units Per Acre (Section 65915(o)(6))

Where the applicable provisions of the general plan, zoning code, or specific plan defines density using “dwelling units per acre,” the base density is equal to the **maximum** number of units allowed by the general plan, specific plan, or zoning code. If a range of density is designated for the site, the base density is equal to the **maximum** density in the range. If the maximum allowed by the general plan, zoning code, and specific plan are different, the base density is the **greatest** density permitted by any of the three documents.

Example: The general plan shows a site with a density range of 20 to 50 units per acre. The zoning ordinance and specific plan allow 20 to 40 units per acre. The base density for the purpose of a density bonus is 50 units per acre, the greatest density permitted in the general plan, specific plan, and zoning ordinance.

Sample Density Chart [Replace with jurisdiction-specific chart]

Designation	Maximum Density
Residential – Single Family	1 unit/acre
Residential – One- and Two Family	2 units/acre
Residential – Multi-Family	20 units/acre
Residential – High Density Multi-Family	80 units/acre
Commercial/Residential – Arterial	45 units/acre
Downtown Specific Plan	50 units/acre

Example: An 80-unit development is proposed on a 1.6-acre site in the Commercial/Residential District, where the maximum density under the zoning ordinance is 45 dwelling units per acre, allowing 72 units. However, the General Plan allows 50 units per acre, allowing 80 units.

The base density is 80 units because the greatest permitted density must be used. Under the statute’s definition of “density bonus,” the additional 8 units are not considered to be an increase in density over the base density of 80 units. So long as the project provides the minimum affordable units (5 percent of 80, or 4 very low-income units), it is considered to be eligible for a density bonus

and hence for the incentives/concessions, waivers and parking reductions discussed in the next section.

Example: A 34-unit rental development is proposed on a 1.24-acre site in the Multifamily District where the maximum density is 20 dwelling units per acre in both the zoning and the general plan.

Base Density = 20 units/acre x 1.24 acres = 24.8 units, which must be rounded up to 25 units.

The proposed density bonus is 35 percent: 35 percent x 25 units = 8.75 units, which must be rounded up to 9 units. Total units = 25 (base density) + 9 (bonus) = 34 units.

The housing development must propose the base density of 25 units as either 11 percent very low-income (11 percent x 25 = 2.75, which rounds up to 3 units) or 20 percent low-income (20 percent x 25 = 5 units) to be eligible for the 35 percent density bonus.

Maximum Allowable Residential Density – No Maximum Density Specified (Section 65915(o)(6)(A) & (B))

[Note: Include this section if applicable.]

Where the general plan, zoning ordinance, and specific plan do not provide a “dwelling units per acre” standard for density and/or the jurisdiction has a form-based code, the [City/County] requires the applicant for the housing development to complete and submit a base density study.

The base density study shall calculate the base density by: estimating the realistic development capacity of the site based on the objective development standards applicable to the site and project, including, but not limited to, floor area ratio (FAR), site coverage, maximum building height and number of stories, building setbacks and stepbacks, public and private open space requirements, minimum percentage or square footage of any nonresidential component, and, where applicable, parking requirements, including the number of spaces, location, design, type, and circulation. The developer may provide a base density study, and the [City/County] shall accept it if it includes all applicable objective development standards.

The allowed density bonus percentage shall then be applied to the number of units shown in the base density study. The project with the density bonus must maintain the same average unit size and other project details relevant to the base density study, except those that may be modified by waivers or concessions to accommodate the bonus units.

V. Incentives, Waivers, and Reduced Parking Ratios

A. Overview

Projects that meet density bonus eligibility requirements are entitled to a finite number of incentives and concessions based on the amount of affordable housing provided and other factors. Incentives must result in “identifiable and actual cost reductions to provide for affordable housing costs... or rents.” A housing development that meets density bonus eligibility requirements may also seek unlimited waivers of development standards as necessary to allow the project to be built at the density allowed by the bonus or with the approved incentives.

B. No Increase in Density Required to Qualify

State law defines a “density bonus” to include a project that is eligible for a density bonus but proposes no actual density increase over the base density. (Section 65915(f).) However, once a housing development is *eligible* for a density bonus, it is entitled to apply for the incentives, concessions, waivers, and parking ratios described in this section, whether it elects to increase project density or not.

C. Incentives and Concessions

Applicants for an eligible housing development may request the number of incentives or concessions identified in the following **Table V.1** (Incentives and concessions are identical, and a reference to one includes the other.)

Incentives are defined in Section 65915(k). They include any regulatory incentive that results in “identifiable and actual cost reductions to provide for affordable housing costs... or rents.” Mixed use zoning can also be requested as a concession if it will reduce the cost of the housing development and is compatible with the development and existing and planned used in the area.

The [City/County] is not required to provide any direct financial incentives for the housing development, including the provision of publicly owned land, fee waivers, or waivers of dedication requirements. (Section 65915(l).)

The [City/County] requires reasonable documentation from the applicant for an eligible housing development to demonstrate that the concession will result in “identifiable and actual cost reductions to provide for affordable housing costs... or rents.” (Sections 65915 (j)(1).)

Table V.1 Incentives for Number of Units by Income Level

Incentives/ Concessions	Percentage of Base Units, Very Low- Income	Percentage of Base Units, Low-Income	Percentage of Base Units, Moderate- Income
1	5 – 9	10 – 16	10 – 19
2	10 – 14	17 – 23	20 – 29
3	15 – 99	24 – 79	30 – 44
5	100; or 80 percent very low income and 20 percent moderate income	100; or 80 percent very low income and 20 percent moderate income	45 or greater

Incentives for For-Sale Projects with Very Low-Income Units. A housing development project in which the units are for sale, and which provides a total of 16 percent very low-income units is entitled to four incentives and concessions.

Incentives for student housing developments. A student housing development that includes at least 20 percent of the total units for lower-income students is eligible for one incentive or concession, while a student housing development that includes at least 23 percent of total units for lower-income students is eligible for two incentives or concessions.

Height Increase for 100 Percent Affordable Projects. A housing development with 100 percent of the units, exclusive of the manager’s unit(s), set aside as housing for lower-income households, or with 20 percent designated for moderate-income households and 80 percent designated for lower-income households, that is located either (1) within one-half mile of a major transit stop or (2) *in a very low vehicle travel area within the [City/County]* may also receive a height increase of up to three additional stories, or 33 feet. (Section 65915(d)(2)(D).)

D. Waivers (Section 65915(e))

A housing development eligible for a density bonus may request waivers of development standards. “Development standards” are site and construction conditions such as height, setback, FAR, open space, and parking requirements. (Section 65915(o)(2).) There is no limit on the number of waivers that may be requested.

Waivers are reductions or modifications of any development standard that would “have the effect of physically precluding the construction of [an eligible development] at the densities or with the [permitted] concessions and incentives.” (Section 65915(e)(1)(A).) However, density limitations cannot be waived beyond those prescribed by State Density Bonus Law. Waivers are provided to accommodate the permitted density, not increase the density beyond what is required by State Density Bonus Law.⁴

100-Percent Affordable Projects Receiving Unlimited Density Not Entitled to Waivers. If a 100 percent affordable project utilizes the unlimited density provision applicable to projects near public transit or in low VMT areas, the [City/County] is not required to approve any waivers, although it may agree to do so. (Section 65915(e)(3).)

E. Reduced Parking Ratios (Section 65915(p))

Housing developments that qualify for a density bonus are also eligible for reduced parking ratios.⁵ These parking ratios are based on the unit types included in the project and may be further reduced for certain projects that are located within one-half mile of a major transit stop. See **Table V.2** below. The parking ratios are inclusive of parking for persons with disabilities and guests, and parking may be provided through tandem parking or uncovered parking, but not through on-street parking. (Sections 65915(p)(1) & (4).)

Parking ratios may be further reduced if proposed as a qualifying incentive or waiver. All parking calculations that result in a fraction must be rounded up to the next whole number. (Section 65915(p)(4).)

Table V.2 Summary of Parking Ratios

Qualifications	Maximum Parking Ratio
Any housing development eligible for a density bonus. Section 65915(p)(1)	1 space for each 0-1 bedroom unit 1.5 spaces for each 2-3 bedroom unit 2.5 spaces for each 4+ bedroom unit 0 spaces for each bedspace in a student housing development

⁴ Note, however, that the statute defines a development standard to include “a minimum lot area per unit requirement.” This is used by many agencies as a density standard. Agencies should amend their ordinances to a units per acre standard to avoid requests to waive this density standard.

⁵ An applicant may also reduce a parking requirement by applying for a waiver, since parking requirements are included in the definition of “development standard.” (§ 65915(o)(2).)

Qualifications	Maximum Parking Ratio
<p>Projects located within one-half mile of a major transit stop (unobstructed access) and meeting any of the following criteria:</p> <ul style="list-style-type: none"> • At least 11 percent of base units set aside for very low-income households; or • At least 20 percent of base units set aside for lower-income households (Section 65915(p)(2)) 	0.5 space per unit
<p>Projects located within one-half mile of a major transit stop (unobstructed access) and at least 40 percent of base units set aside for moderate-income households. (Section 65915(p)(2))</p>	0.5 space per bedroom
<p>Projects where 100 percent of the units are set aside affordable (up to 20 percent moderate, others low) and meeting any of the following criteria:</p> <ul style="list-style-type: none"> • Located with one-half mile of a major transit stop (unobstructed access); or • Senior citizen housing development that has either paratransit service or unobstructed access, within one-half mile of a fixed bus route that operates at least eight times per day; or • Supportive housing development for people with disabilities; or • Special needs housing development that has either paratransit service or unobstructed access, within one-half mile of a fixed bus route that operates at least eight times per day. (Section 65915(p)(3).) 	No off-street parking required.

[Note: An agency may do a study justifying a higher parking ratio. If one has been done, it can be added here.]

VI. Affordable Housing Requirements

A. Fair Housing Requirements

[Note: The noted/italicized requirements are not included in statutes but are recommended to affirmatively further fair housing.]

Size of Affordable Units. The affordable units in a housing development must contain the same proportional mix of bedroom sizes as the market-rate units. *[Note: This avoids a disparate impact against families with children.]*

Quality of Affordable Units. Affordable units shall be comparable in exterior appearance and overall quality of construction to market-rate units in the same housing development. Interior finishes and amenities may differ from those provided in the market-rate units, but neither the workmanship nor the products may be of substandard or inferior quality as determined by the [City/County].

Affordable Units in Mixed-Income Buildings. In mixed-income buildings, the occupants of the affordable units shall have the same access to the common entrances and to the common areas, parking, and amenities of the project as the occupants of the market-rate housing units. The affordable units must be located throughout the building(s) and not isolated in one building, on one floor or to an area on a specific floor. (Health & Safety Code Section 17929.)

Student Housing Development. Any affordability restriction imposed on a student housing development (or state or county law or policy, or property management policy) must not prevent a lower-income student from sharing a room or unit with a non-lower-income student. Any attempt to waive this prohibition (as codified in Section 65915(b)(1)(F)(ii)) is void as against public policy.

B. Affordable Housing and Senior Housing Agreements

For all projects except market-rate senior housing developments

The property owner and applicant shall enter into an affordable housing agreement with the [City/County], in a form approved by the [City Attorney/County Counsel], to be executed by the [City Manager/County Administrator]. *[Note: Jurisdictions may no longer charge developers a monitoring fee to ensure the continued affordability of density bonus units where the housing development project is 100 percent affordable as defined in Section 65915(b)(1)(G) and satisfies all other the criteria in Section 65915.3.]*

For Senior Housing Developments

The property owner and applicant shall enter into a restrictive covenant with the [City/County] in a form approved by the [City Attorney/County Counsel], to be executed by the [City Manager/County Administrator], to require that the housing development be operated as “housing for older persons” consistent with state and federal fair housing laws. (Sections 65915(c)(1)(A) & (c)(2).)

The executed agreement shall be recorded against the housing development prior to final or parcel map approval, or, where a map is not being processed, prior to issuance of building permits for the housing development. The agreement shall be binding on all future owners and successors in interest. For more information about special development types, see **Table IV.4**.

Provisions to be Included in All Affordable Housing Agreements

[Note: These provisions should be tailored to the practices of the city/county.]

The provisions listed below should be included in all affordable housing agreements:

- Recitals regarding approvals and legal bases for the affordability requirements;
- Legal description of the entire property;
- Development schedule in relation to the affordable and market-rate units; implementation of concurrency requirements to ensure that affordable units are constructed concurrently with market-rate units;
- Type and location of affordable units (single family, condominium, townhouse, apartments, etc.);
- Number of bedrooms and square footage;
- Affordable unit design and appearance;
- Level of affordability and length of affordability;
- Procedures for setting initial affordable sales prices or rents; and
- Procedures for city approval of marketing plan, if desired.

Rental Housing Developments

For rental housing developments, the affordable housing agreement must require the continued affordability of all rental units that qualified the housing development for a density bonus, and any incentives, waivers, or parking reductions, for a minimum of 55 years, or for a longer period if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program, or by the agency’s inclusionary ordinance. The rental housing agreement may be

drafted as a long-term agreement that will apply to successive owners of the development. In that case, it should include, in addition to the terms listed above:

- Calculation of affordable rents and mechanisms for city approval of annual rent increases;
- Determination of tenant eligibility and annual certification of incomes;
- Policies for over-income tenants;
- Procedures for marketing of vacant units;
- Required lease terms;
- Property management and maintenance;
- Required record-keeping;
- If building is a condominium: provisions for conversion to ownership and tenant relocation and other benefits;
- Term and requirements for tenant notification when term expires;
- Provisions for minor and substantive amendments; and
- Remedies in the event of default.

For-Sale Housing Developments

For for-sale housing developments, the affordable housing agreement will expire after the units are sold to qualified buyers and replaced with individual agreements with each homebuyer. The [City's/County's] chief aim in this situation is to require that the units be constructed and then sold at an affordable housing cost to either qualified lower- or moderate-income households (as applicable), or that the units are purchased by a qualified nonprofit housing corporation. The [City/County] will [enter into resale restrictions OR enforce an equity sharing agreement consistent with State Density Bonus Law – (depends on local ordinance)] with the homebuyer.

Provisions to be included in the agreement in addition to those listed above include:

- Provisions for recording restrictions against individual units as the affordable units are sold in the future
- Procedures for selecting initial buyers, verifying incomes, determining affordable housing cost, and ensuring that buyers sign, and are aware of, required restrictions; and
- Mechanism for terminating the master developer agreement once homebuyer restrictions are recorded.

Any proposed purchase of a for-sale unit by a qualified nonprofit housing corporation must conform with the provisions of Sections 65915(c)(2)(A)(ii) and (B) and the provisions described above may be modified accordingly.

Market-Rate Senior Housing Development

For a market-rate senior housing development that receives a density bonus or any waivers or parking reductions, the [City/County] and the developer will enter into a restrictive covenant, running with the land, in a form approved by the [City Attorney/County Counsel], to be executed by the [City Manager/County Administrator] (or their designee) to require the housing development to be operated as “housing for older persons” under California Civil Code Sections 51.3 and 51.12.

VII. Application and Approval Requirements

A. Basic Application Requirements

Any applicant requesting a density bonus, or any incentives, waivers, or parking reductions must provide the following documentation:

Project Summary Table. A summary table showing the maximum allowable residential density (base density) permitted by the zoning, specific plan, and general plan designations, excluding any density bonus; proposed affordable units by income level; proposed density bonus percentage; all units in the projects; and resulting density in dwelling units per acre. Specify whether the development is proposing shared housing or student housing.

Base Density Study (if applicable). Where the general plan, zoning ordinance, or specific plan does not provide a “dwelling units per acre” standard for density, the applicant must complete and submit a base density study. The base density study shall calculate the base density by: estimating the realistic development capacity of the site based on the objective development standards applicable to the site and project, including, but not limited to, floor area ratio (FAR), site coverage, maximum building height and number of stories, building setbacks and stepbacks, public and private open space requirements, minimum percentage or square footage of any nonresidential component, and, where applicable, parking requirements, including the number of spaces, location, design, type, and circulation. The developer may provide a base density study, and the [City/County] shall accept it if it includes all applicable objective development standards.

Student Housing. If student housing is proposed, evidence that all units will be used exclusively by students who are enrolled currently or in the past six months in at least six units at a higher education institution. This evidence must include documentation showing that the applicant either intends to enter into an operating agreement or master lease for all the units with an institution of higher

education or will establish a system for confirming its renters' status as students to ensure that all units of the student housing development are occupied with students from an institution of higher education. Additionally, provide evidence of the median-income of residences of single-room occupancy units and proposed rents for the units to be rented to lower-income students. Finally, if seeking a density bonus greater than 35 percent, demonstrate that the student housing development is not proposed on a site that will require replacement housing.

Site Plan. A tentative map or preliminary site plan, drawn to scale, showing the number of proposed units, designating the location of proposed affordable units.

Site Description. The zoning and general plan designations, assessor's parcel number(s) of the housing development site, and if reduced parking or unlimited density is requested based on located, the distance to the nearest major transit stop, unless unlimited density is requested based on a low VMT designation.

Phasing. A description of the phasing of the affordable units in relation to the market-rate units in the housing development.

Requested Incentives/Concessions. The following minimum information must be provided for each incentive requested:

- The number of incentives for which the housing development is eligible;
- The [City/County]'s usual regulatory standard and the requested incentive;
- Reasonable documentation that the requested incentives will result in identifiable and actual cost reductions to provide for affordable housing costs or rents.

Requested Waivers. For each waiver requested, the [City/County]'s usual development standard and the requested development standard.

Parking Reductions. A summary table showing parking required by the zoning regulations, parking proposed under State Density Bonus Law, and reasonable documentation that the housing development is eligible for the requested parking reduction.

Land Donation. If the housing development is applying for a density bonus on the basis of a proposed land donation, the applicant must provide the location of the land to be dedicated, proof of site control, and reasonable documentation that each of the requirements in Government Code Sections 65915(g) can be met.

Childcare Facility for a Housing Development. If a density bonus or incentive is requested for a childcare facility in a housing development, reasonable documentation that all of the requirements included in Section 65915(h) can be met.

Condominium Conversion. If a density bonus or incentive is requested for a condominium conversion, reasonable documentation that all of the requirements included in Section 65915.5 can be met.

Commercial Development Bonus. If a commercial development bonus is requested for a commercial development, the application shall include the proposed partnered housing agreement and the proposed commercial development bonus and reasonable documentation that each of the standards included in Section 65915.7 has been met.

[Note: For all “designated residential projects,” which includes any project eligible for a density bonus, jurisdictions generally may not collect impact fees (i.e., fees for the purpose of defraying the cost of public improvements) from the developer until issuance of a certificate of occupancy, temporary certificate of occupancy, or final inspection, and the amount of the fee cannot exceed what would have been charged at building permit issuance. Certain exceptions to this rule are outlined in Sections 66007(c).]

B. Information Regarding Replacement Housing Obligations

An applicant for a housing development that is requesting a density bonus must provide the information needed to comply with the replacement housing requirements. Below is the information that an applicant for a housing development must provide if the project proposes to demolish one or more units:

Restricted Affordable Lower-Income Units: Indicate the number of units by bedroom size existing on the site in the past five years that were at any time subject to a recorded covenant, ordinance, or law that restricted rents or prices to be affordable to lower- or very low-income households.

Units Subject to Rent Control or Price Control: Indicate the number of units by bedroom size on the site that in the past five years have been subject to rent control (through either state law, a local rent control ordinance, or an inclusionary ordinance) or price control.

Incomes of Existing Tenant Households: Provide documentation of the names, property address, and current incomes of any households now occupying units on the site, by bedroom size of units. If current incomes are unknown, please indicate. Also indicate what efforts have been made to determine tenant incomes.

If Any Units Are Still Occupied, Incomes of Households Formerly Occupying Vacant Units: For any vacant units, provide documentation of the income of the last household occupying the unit, by bedroom size. If that household's income is unknown, please indicate.

No Units Occupied; All Units Vacant or Demolished; Incomes of Former Tenants: If all units that existed on the site in the last five years are currently vacant or have been demolished, please indicate the maximum number of units, by bedroom size, that existed on the site in the past five years and the

income of each household occupying a unit at the time when the maximum number of units existed on the site. If the income of those households is unknown, please indicate.

[Note: A best practice for replacement housing obligations is that the local agency should retain a relocation consultant, at the applicant's expense, to interview tenants, determine incomes, and determine relocation benefits. When applicants do this, they may not provide accurate information to tenants and may not share their information with the agency, making it almost impossible for the agency to verify the information's accuracy. Consider adding this requirement into the local guidelines.]

C. Findings for Approval

An application for a density bonus shall be approved pursuant to State Density Bonus Law if, along with any findings required for other permits for the housing development, the [decision-making body of the City/County] makes the following written findings:

- a. The housing development provides the housing required by State Density Bonus Law to be eligible for the requested density bonus and any incentives, waivers, or parking reductions, including the replacement of units rented or formerly rented to very low- and low-income households.
- b. If a density bonus, incentive, waiver, or parking reduction is requested, the housing development has provided sufficient affordable units or otherwise meets the eligibility requirements for the density bonus as described in Section 65915(f).
- c. If a parking reduction is requested, the housing development is eligible for the parking reduction as described in Section 65915(p).
- d. If the density bonus and any incentives, waivers, or parking reductions are based all or in part on donation of land, the applicant has satisfied the requirements of Section 65915(g).
- e. If the density bonus and any incentives, waivers, or parking reductions are based all or in part on the inclusion of a childcare facility, the applicant has satisfied the requirements of Section 65915(h).
- f. If the density bonus and any incentives, waivers, or parking reductions are based all or in part on a condominium conversion, the applicant has satisfied the requirements of Section 65915.5.
- g. *[Note: include if applicable]* If the housing development is located in the Coastal Zone, the requested density bonus and any incentives, waivers, or parking reductions are consistent with all applicable requirements of the Local Coastal Program, with the exception of density.

D. Findings Allowing Denial

Findings for Denial of Incentive. The [decision-making body of the City/County] shall grant an incentive requested by an applicant for a housing development unless it makes a written finding, based on substantial evidence, of any of the following:

- a. The proposed incentive does not result in identifiable and actual cost reductions, consistent with Section 65915(k), to provide for affordable housing costs, as defined in Health and Safety Code Section 50052.5; or for affordable rents, as defined in Health and Safety Code Section 50053;
- b. The proposed incentive would be contrary to state or federal law; or
- c. The proposed incentive would have a specific, adverse impact upon the public health or safety or on any real property that is listed in the California Register of Historic Resources, and there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact without rendering the housing development unaffordable to low- and moderate-income households. “Specific, adverse impact” means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, written public health or safety standards, policies, or conditions as they existed on the date that the application for the housing development was deemed complete as defined in Section 65589.5).

Findings for Denial of Waiver. The decision-making body of the [City/County] shall grant a waiver of development standards requested by an applicant for a housing development unless it makes a written finding, based on substantial evidence, of any of the following:

- a. The proposed waiver would be contrary to state or federal law;
- b. The proposed waiver would have an adverse impact on any real property listed in the California Register of Historic Resources; or
- c. The proposed waiver would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the housing development unaffordable to low- and moderate-income households. “Specific, adverse impact” means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, written public health or safety standards, policies, or conditions as they existed on the date that the application for the housing development was deemed complete as defined in Government Code Section 65589.5.

Findings for Denial of Density Bonus Based on Provision of Childcare Facility. The [decision-making body of the City/County] may deny a request for a density bonus or incentive that is based all or in part on the proposed provision of a childcare facility if the [decision-making body of the City/County] makes

a written finding, based on substantial evidence, that the [City/County] already has adequate childcare facilities.