

### **3-05-090 Density bonuses for affordable and senior housing.**

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A. Definitions. For the purpose of this section, the following terms shall be defined as follows:

1. "Affordable to low-income or very-low-income households" means that the sales prices or rental rates of a housing development conform with the current "City of Livermore Affordable Housing Sales Prices and Rental Rates," established annually by resolution of the city council.
2. "Affordable housing project" means a residential development consisting of five or more units, not including any bonus units requested pursuant to this section, in which (a) at least 20 percent of the total units are affordable to low-income households, or (b) at least 10 percent of the total units are affordable to very-low-income households, or (c) at least 50 percent of the total units are senior housing (Government Code Section 65915(b) and Civil Code Sections 51.2 and 51.3).
3. "Community development director" means the community development director or his or her designee.
4. "Density bonus" means a density increase of at least 25 percent over the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the general plan as of the date of application by the developer to the city (Government Code Section 65915(f)).
5. "Housing development" means one or more groups of projects for residential units constructed in the city.
6. "Density bonus housing agreement" means an agreement between the city and the developer setting forth the terms and conditions of the award of a density bonus, and which the city council finds is required to make an affordable housing project economically feasible (Government Code Section 65915(h)).
7. "Incentive" means a regulatory or financial concession, grant, refund, or waiver which reduces or avoids project costs.
8. "Restricted unit" means a unit which is affordable to very-low- or low-income households as defined in the housing element of the city of Livermore general plan and approved pursuant to this section.
9. "Senior housing" means housing developed for residents aged 62 years or older, or 55 years or older in a senior citizen housing development of 35 units or more (Civil Code Section 51.3(c)).
10. "Unit" means a residential lot for subdivision projects or a housing unit for nonsubdivision projects.

B. Density Bonus Entitlement. The city shall grant the developer of an affordable housing project either (1) a density bonus and at least one incentive unless the city makes a written finding that the additional incentive is not required in order to provide for affordable housing, or (2) provide other incentives of equivalent financial value based upon the land cost per dwelling unit (Government Code Section 65915(b)).

The following regulations apply only to the granting of a density bonus and one additional incentive:

1. The affordable housing project may be a sales or rental development, and may be a single-family or multifamily development.
2. The density bonus shall not be included when determining the number of housing units which is equal to 10 or 20 percent of the total.
3. The density bonus shall be permitted in geographic areas of the housing development other than the areas where the units for the lower-income households are located (Government Code Section 65915(g)).

4. The developer may request a density bonus exceeding 25 percent. The excess bonus units shall constitute an incentive apart from the 25 percent density bonus for a qualifying project.
5. A developer who requests a density bonus of less than 25 percent for a qualifying project will nevertheless be required to provide the minimum number of restricted units necessary to qualify as an affordable housing project.
6. A developer who agrees to construct both 20 percent low-income units and 10 percent very-low-income units shall be entitled to only one density bonus and at least one additional incentive, although the city may, at its discretion, grant more than one density bonus.

C. Incentives. Incentives may include, but are not limited to, the following:

1. A reduction in site development standards or a modification of zoning code requirements which exceed the minimum building standards set forth in Health and Safety Code Section 18901 et seq. and would otherwise inhibit the utilization of the density bonus on specific sites (Government Code Section 65915(h)). These may include, but are not limited to, any of the following:
  - a. Reduced minimum lot sizes or dimensions.
  - b. Reduced minimum lot setbacks.
  - c. Reduced minimum outdoor or private outdoor living area.
  - d. Increased maximum lot coverage.
  - e. Increased maximum building height or stories.
  - f. Reduced minimum building separation requirements.
  - g. Rezoning to planned development district.
2. Approval of mixed use zoning in conjunction with the housing project, if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if the commercial, office, industrial, or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located (Government Code Section 65915(h)).
3. Waiver of certain city fees applicable to the restricted units in an affordable housing project. Fees to be waived may be established by resolution of the city council on a project-by-project basis, which may be amended from time to time.
4. Pursuant to the city's growth management program, in a competitive year, a project including between 35 percent and 50 percent of its units as very-low-income housing units will not be subject to competitive review in the city's housing implementation program.
5. A density bonus of more than 25 percent.
6. Other regulatory incentives or concessions proposed by the developer or the city which result in identifiable cost reductions (Government Code Section 65915(h)).
7. The city will not provide equivalent financial incentives instead of a density bonus for privately sponsored housing developments.

D. Density Bonus Application Procedures.

1. The developer shall give notice of his or her intent to apply for a density bonus in his or her letter of intent submitted pursuant to the city's housing implementation program. When a project is exempt from the city's housing implementation program, the developer shall apply for the density bonus as part of his or her development application, tract map, site plan approval or planned development permit.
2. In a competitive housing implementation program year, the developer shall apply for the density bonus as part of his or her housing implementation program application. In a noncompetitive housing implementation program year, a density bonus shall be requested and reviewed as part of the tentative map project application. In a noncompetitive housing

implementation program year, the density bonus in a nonsubdivision shall be requested and reviewed through a conditional use permit application.

3. In addition to the materials normally required for a tentative map or conditional use permit application, the applications shall clearly identify the restricted units and shall contain information sufficient to demonstrate that the project is an affordable housing project.

4. The community development director shall prepare and maintain a list of supplemental application materials for density bonus requests under this title, which materials shall be submitted together with and as part of the project application.

5. If the requested incentives require a separate land use application, such as a variance or conditional use permit, the separate land use application shall be submitted with the project application for concurrent processing.

6. Developers requesting incentives shall specify the incentives and shall clearly indicate how the incentive is necessary to insure that the project will provide a reasonable economic return while still allowing restricted units to be affordable as required by this section (Government Code Section 65915(b)). At a minimum, the application shall include an itemized accounting of projected costs and revenues of the development, both with and without the incentives. Project revenues shall include monies from the sale or rental of all units, including the bonus units. Project costs shall not include the amount that would have been generated had the restricted units been rented or sold at market rate. Project costs may include items that are required solely as a result of the inclusion of the bonus units and would not have been required without such units.

7. The community development director may direct, at the applicant's expense, that an independent analysis be conducted of the project's costs, revenues, and property value in order to determine the necessity for any requested density bonus or incentive.

8. The city may disapprove any requested incentive subject to the finding set forth in subsection (H) of this section. The city may also accept, modify, or recommend different incentives from those requested as long as the recommended incentive has the effect of reducing development standards or requirements or reduces or avoids costs to the developer.

#### E. Development Standards for Restricted Units.

1. Restricted units shall be constructed concurrently with other units unless both the city and the developer agree to an alternative schedule for development in the density bonus housing agreement.

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

Studio/efficiency 1 person

1 bedroom 1.5 persons

2 bedroom 3 persons

3 bedroom 4.5 persons

4 bedroom 6 persons

5 bedroom 7.5 persons

6 bedroom 9 persons

3. Restricted units shall be representative of the project as a whole, for example, with comparable size, appearance, bedroom mix, and amenities.

4. Restricted units shall be distributed throughout the project rather than concentrated in one portion of the project.

5. Circumstances may arise in which the public interest would be served by allowing some or all of the restricted units associated with one housing development to be produced and operated at

an alternative development site. Where the developer and the city form such an agreement in the density bonus housing agreement, the resulting linked developments shall be considered a single housing development for purposes of this section. Under these circumstances, the developer shall be subject to the same requirements of this section for the restricted units to be provided on the alternative site.

6. For-sale restricted units shall be owner-occupied; no renting or leasing shall be allowed.

F. Density Bonus Housing Agreement. A density bonus housing agreement shall be made a condition of the tentative map for a subdivision or the conditions of approval for a non-subdivision and shall include, at a minimum, the following terms:

1. The housing development shall remain an affordable housing project for 30 years.
2. The density bonus housing agreement shall run with the land and be binding on future owners and renters of the restricted units.
3. The density bonus agreement shall identify and locate, and state the mix of the restricted units.

G. Public Hearing. The planning commission and city council shall hold public hearings for any density bonus applied for under the provisions of the section.

H. Finding Required to Deny Application for an Additional Incentive. An additional incentive shall be granted unless the city council finds that the additional incentive is not required in order to provide for affordable housing costs (Government Code Section 65915(b)). (Ord. 1553 § 1, 1999; Ord. 442 § 20.36)