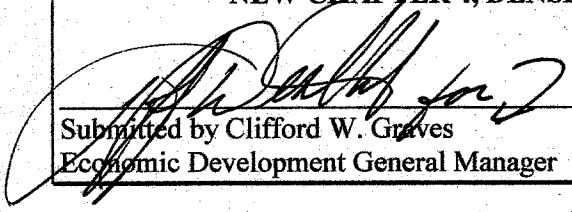


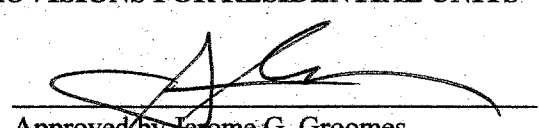


City of Carson Report to Mayor and City Council

September 21, 2010
Special Orders of the Day

SUBJECT: CONTINUED PUBLIC HEARING TO CONSIDER ORDINANCE NO. 10-1456 AMENDING ARTICLE IX OF THE CARSON MUNICIPAL CODE, BY ADDING A NEW CHAPTER 4, DENSITY BONUS PROVISIONS FOR RESIDENTIAL UNITS


Submitted by Clifford W. Graves
Economic Development General Manager


Approved by Jerome G. Grooms
City Manager

I. SUMMARY

This item was continued from the September 7, 2010, meeting.

On August 10, 2010, the Planning Commission adopted Resolution No. 10-2323 recommending to the Carson City Council the approval of Ordinance No. 10-1456, to amend Article IX of the Carson Municipal Code by adding a new Chapter 4, Density Bonus Provisions for Residential Units (Exhibit No.1).

II. RECOMMENDATION

TAKE the following actions:

1. OPEN the continued Public Hearing, TAKE public testimony, and CLOSE the continued Public Hearing.
2. WAIVE further reading and INTRODUCE Ordinance No. 10-1456, "AN ORDINANCE OF THE CITY OF CARSON, CALIFORNIA, AMENDING CHAPTER 4, DENSITY BONUS PROVISIONS FOR RESIDENTIAL UNITS, TO ARTICLE IX TO ESTABLISH DENSITY BONUS STANDARDS FOR AFFORDABLE RESIDENTIAL UNITS."

III. ALTERNATIVES

1. DENY the request.
2. REFER this matter back to Planning Commission with instructions for revisions.
3. TAKE another action the City Council deems appropriate.

IV. BACKGROUND

Government Code Section 65915-18 (Exhibit No. 3), state density bonus law, requires local governments to make incentives available to residential developers that voluntarily propose to reserve specified portions of a proposed development for occupancy by low- or moderate-income households and indicates that local governments are not to undermine implementation of this provision. Every local government is required to adopt an ordinance establishing how it will implement the state density bonus law, including setting forth the incentives the local

13.

government will provide.

State housing element law requires jurisdictions to plan for their existing and projected housing needs, identify adequate sites to accommodate its share of the regional housing need, and analyze local policies, regulations or requirements that have the potential to constrain the development, maintenance or improvement of housing for all income levels. The law also requires programs to "assist in the development of adequate housing to meet the needs of low- and moderate-income households."

The 2006-2014 Regional Housing Needs Assessment (RHNA) prepared by the Southern California Association of Governments (SCAG) allocates a housing need of 1,812 units for Carson. The allocation of 1,812 units is broken down into four categories as follows: 461 very low-income households; 287 low-income households; 307 moderate-income households; and 757 above-moderate income households.

Carson is obligated to support and promote the production of new housing for all economic groups in compliance with state planning and redevelopment laws.

The proposed Density Bonus Ordinance (Exhibit No. 2) is modeled after state law that requires local jurisdictions to adopt ordinances that are consistent with the provisions of California Government Code Sections 65915-65918 (Exhibit No. 3). In January 2005, the state enacted Senate Bill 1818 that made substantial changes to the state's density bonus law. These changes resulted in the need for cities and counties statewide to amend the density bonus ordinances to conform with the new requirements. In general, the changes to density bonus law instituted in January 2005 lessened the eligibility requirements for projects to receive a density bonus in an effort to encourage more affordable housing.

V. FISCAL IMPACT

None.

VI. EXHIBITS

1. Planning Commission August 10, 2010 staff report, and Planning Commission Resolution No. 10-2323. (pgs. 4-7)
2. Ordinance No. 10-1456. (pgs. 8-29)
3. Government Code Sections 65915-65918. (pgs. 30-39)

Prepared by: Zak Gonzalez II, Associate Planner

sfRev061902

Reviewed by:

City Clerk	City Treasurer
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<u>Administrative Services</u>	<u>Development Services</u>
<u>Economic Development Services</u>	<u>Public Services</u>

Action taken by City Council

Date _____	Action _____



CITY OF CARSON

PLANNING COMMISSION STAFF REPORT

CONTINUED PUBLIC HEARING: August 10, 2010

SUBJECT: Public hearing to discuss the "Draft" proposed ordinance entitled "Density Bonus Provisions for Residential Units" to establish density bonus standards for affordable residential units

APPLICANT: City of Carson

REQUEST: Recommend approval on the "Draft" proposed ordinance

PROPERTY INVOLVED: Citywide

COMMISSION ACTION

- Concurred with staff
- Did not concur with staff Commissioner Verrett moved, seconded by Commissioner Gordon, to approve staff recommendation, thus adopting Resolution No. 10-2323. Motion carried, 9-0.
- Other

COMMISSIONERS' VOTE

AYE	NO		AYE	NO	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Chairman Faletogo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Graber
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Vice-Chair Park	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Saenz
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Brimmer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Schaefer
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Diaz	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Verrett
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Gordon	<input type="checkbox"/>	<input type="checkbox"/>	

EXHIBIT NO. 1 -



I. Background

Please refer to the July 27, 2010, Planning Commission prior staff report for the complete background, analysis and attachments to proposed density bonus ordinance.

Attached for your review and recommendation of approval to the Carson City Council is the Draft Ordinance No. 10-1456 "Density Bonus Provisions for Residential Units". Please note the following revision to said draft ordinance:

1. On page 19, Section 9411 "Application Requirements" previous "triangle 25" the following language has been added: "Further, a qualified density bonus application providing affordable housing shall be exempt from CMC Section 9172.21 "Conditional Use Permit", however, all density bonus applications for affordable housing shall be subject to CMC Section 9172.23 "Site Plan and Design Review".

The proposed Density Bonus Ordinance is modeled after State Law which requires local jurisdictions to adopt ordinances that are consistent with the provisions of California Government Code Sections 65915-65918. In January 2005, the State enacted Senate Bill 1818, which called for substantial changes to the State's density bonus law. These changes resulted in the need for cities and counties statewide to amend their density bonus ordinances to bring them into conformance with the new requirements.

II. Environmental Review:

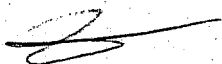
The proposed Density Bonus Ordinance No. 10-1456 is exempt from the California Environmental Quality Act (CEQA) Guidelines per Section 15321 (a) (2) thereby the proposed ordinance is deemed not a project and does not have the potential to cause a significant effect on the environment.

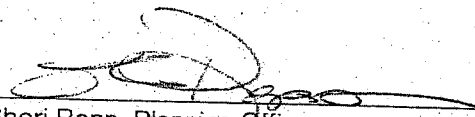
III. Recommendation

That the Planning Commission recommends approval of proposed Density Bonus Ordinance No. 10-1456 to the Carson City Council.

IV. Exhibits

1. Draft "Density Bonus Provisions for Residential Units" Ordinance No. 10-1456
2. Resolution recommending approval to Carson City Council of the Proposed Density Bonus Ordinance No. 10-1456

Prepared by: 
Zak Gonzalez II, Associate Planner

Approved by: 
Sheri Repp, Planning Officer



CITY OF CARSON
PLANNING COMMISSION
RESOLUTION NO. 10-2323

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CARSON RECOMMENDING TO CITY COUNCIL THE APPROVAL OF AN ORDINANCE TO AMEND ARTICLE IX OF THE CARSON MUNICIPAL CODE BY ADDING A NEW CHAPTER 4, "DENSITY BONUS PROVISIONS FOR RESIDENTIAL UNITS," TO SAID ARTICLE IX, TO ESTABLISH DENSITY BONUS STANDARDS FOR AFFORDABLE RESIDENTIAL UNITS

THE PLANNING COMMISSION OF THE CITY OF CARSON, CALIFORNIA, HEREBY FINDS, RESOLVES AND ORDERS AS FOLLOWS:

Section 1. The Planning Commission is recommending approval of an ordinance amendment as described in Exhibit "A" attached hereto to the Carson City Council. The proposed ordinance amends Article IX (Planning and Zoning), by adding a new Chapter 4, "Density Bonus Provisions for Residential Units," to said Article IX, to establish density bonus standards for affordable residential units. A public hearing was duly held on July 27, 2010 and on August 10, 2010, at 6:30 P.M. at City Hall, Council Chambers, 701 East Carson Street, Carson, California. A notice of time, place and purpose of the aforesaid meeting was duly given.

Section 2. Evidence, both written and oral, was duly presented to and considered by the Planning Commission at the aforesaid meeting.

Section 3. The Planning Commission finds that:

- a) The proposed ordinance providing density bonus provisions for residential units to establish density bonus standards for affordable housing supports and is consistent with the City of Carson General Plan.
- b) The implementation of the proposed ordinance facilitates the on-going protection of the health, safety and welfare of the Carson community.
- c) The proposed ordinance complies with State Housing Laws (Government Code Sections 65915, 65915.5, and 65917) and Senate Bills: SB 1818; SB 435; and SB 2280 that require cities to provide certain incentives, concessions or density bonuses to an applicant constructing housing units, a portion of which are restricted as affordable units or units restricted for senior citizens.

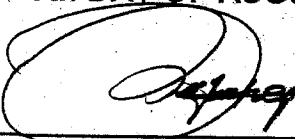
Section 4. The Planning Commission further finds that proposed Ordinance No. 10-1456 is exempt from the California Environmental Quality Act (CEQA) Guidelines per Section 15321(a) (2), which exempts enforcement actions by regulatory agencies, therefore no project exists and the activity does not have the potential to cause a significant effect on the environment. The Planning Commission determines that Ordinance No. 10-1456 will not impact the environment.

Section 5 The Secretary shall certify to the adoption of the Resolution and shall transmit copies of the same to the applicant.


6

Section 7. This action shall become final and effective fifteen days after the adoption of this Resolution unless within such time an appeal is filed with the City Clerk in accordance with the provisions of the Carson Zoning Ordinance.

PASSED, APPROVED AND ADOPTED THIS 10th DAY OF AUGUST, 2010



CHAIRMAN

ATTEST:


SECRETARY

7

ORDINANCE NO. 10-1456

AN ORDINANCE OF THE CITY OF CARSON, CALIFORNIA, AMENDING ARTICLE IX OF THE CARSON MUNICIPAL CODE BY ADDING A NEW CHAPTER 4, DENSITY BONUS PROVISIONS FOR RESIDENTIAL UNITS, TO ARTICLE IX TO ESTABLISH DENSITY BONUS STANDARDS FOR AFFORDABLE RESIDENTIAL UNITS

WHEREAS, Government Code Sections 65915, 65915.5, and 65917 require cities to provide certain incentives, concessions or density bonuses to an applicant constructing housing units, a portion of which are restricted as affordable units or units restricted for senior citizens; and

WHEREAS, said Government Code Sections were amended in 2004 by Senate Bill ("SB") 1818, in 2005 by SB 435 making clarifications to amendments made in 2004 by SB 1818, and in 2008 by SB 2280 making further clarifications in the density bonus law; and

WHEREAS, the City Council of the City of Carson has not yet enacted density bonus regulations in the City's Planning and Zoning provisions at Article IX in accordance with State law; and

WHEREAS, the City Council would like to amend its density bonus regulations as required by State law:

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. A new Chapter 4, entitled "Density Bonus Provisions For Residential Units" is hereby added to Article IX of the Carson Municipal Code to read, in its entirety, as follows:

"CHAPTER 4 DENSITY BONUS PROVISIONS FOR RESIDENTIAL UNITS

Section 9400	Purpose.
Section 9401	Definitions.
Section 9402	Density Bonuses for Affordable and Senior Citizen Housing.
Section 9403	Additional Density Bonus for Donations of Land.
Section 9404	Density Bonus & Incentives for Condominium Conversions.
Section 9405	Density Bonus & Incentives for Child Care Facilities.
Section 9406	General Provisions Governing Density Bonus Calculations.
Section 9407	Incentives and Concessions for Affordable Housing.
Section 9408	Waivers & Modifications of Development Standards.

EXHIBIT NO. 2 -



Section 9409	Parking Incentives.
Section 9410	Standards for Density Bonus Housing Developments.
Section 9411	Application Requirements.
Section 9412	Application Review.
Section 9413	Developer Affordable Housing Agreement.

Section 9400 Purpose.

This chapter is being enacted: (1) to provide incentives for the production of housing for very low income, low income, moderate income and senior citizen households; (2) to provide incentives for the creation of rental housing serving lower and moderate income households; (3) to provide incentives for the construction of child care facilities serving very low, lower and moderate income households; and (4) to implement Sections 65915, 65915.5, and 65917 of the California Government Code as required by Section 65915(a). In enacting this chapter, the city also intends to implement the goals, objectives, and policies of the city's general plan housing element to encourage the construction of affordable housing in the city. It is also the city's intent to encourage the development of rental housing to serve an economically diverse community. Accordingly, the city desires to provide a density bonus upon the request of an applicant when the applicant includes affordable or senior citizen restricted units in a project. This chapter implements the laws for density bonuses and other incentive and concessions available to qualified applicants under Government Code Sections 65915 through 65918. In the event these Government Code sections are amended, those amended provisions shall be incorporated into this chapter as if fully set forth herein.

Section 9401 Definitions.

For purposes of this chapter, the following definitions shall apply. Unless specifically defined below, words or phrases shall be interpreted as to give this chapter its most reasonable interpretation.

- a. "Affordable Ownership Costs" means average annual housing costs, including mortgage payments, property taxes, homeowners insurance, and homeowners' association dues, if any, which do not exceed the following:

Very low income households: 50% of area median income, adjusted for assumed household size based on unit size, multiplied by 30%.

Lower income households: 70% of area median income, adjusted for assumed household size based on unit size, multiplied by 30%.

Moderate income households: 110% of area median income, adjusted for assumed household size based on unit size, multiplied by 35%.

- b. "Affordable Rent" means annual rent, including utilities and all fees for housing services, which does not exceed the following:

Very low income households: 50% of area median income, adjusted for assumed household size based on unit size, multiplied by 30%.



Lower income households: 60% of area median income, adjusted for assumed household size based on unit size, multiplied by 30%.

- c. "Affordable Units" are dwelling units which are affordable to very low, lower, or moderate income households as defined by this chapter or by any federal or state housing program and are subject to rental, sale, or resale restrictions to maintain affordability.
- d. "Applicant" means a developer or applicant for a density bonus who seeks and agrees to construct a qualified housing development on or after the effective date of this chapter pursuant to Section 65915, subdivision (b), of the California Government Code.
- e. "Area Median Income" means area median income for Los Angeles County as published by the State of California pursuant to California Code of Regulations, Title 25, Section 6932, or a successor provision.
- f. "Assumed Household Size Based on Unit Size" means a household of one person in a studio apartment, two persons in a one bedroom unit, three persons in a two bedroom unit, and one additional person for each additional bedroom thereafter.
- g. "Child Care Facility" means a child day care facility other than a family day care home including, but not limited to, infant centers, preschools, extended day care facilities, and school age child care centers.
- h. "Common Interest Development" bears the same meaning as defined in Section 1351 of the California Civil Code.
- i. "Density Bonus" means a density increase over the otherwise allowable zoning maximum residential density on a site as of the date of application by the applicant to the city, granted pursuant to this chapter.
- j. "Density Bonus Units" means residential units granted pursuant to this chapter which exceed the otherwise allowable zoning maximum residential density for a housing development.
- k. "Development Standard" means any site or construction condition including, but not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open-space requirement, or a parking ratio that applies to a housing development pursuant to any ordinance, general plan element, specific plan, or other local condition, law, policy, or regulation. A "site and construction condition" is a development condition or law that provides a specification for the physical development of a site and buildings on the site in a housing development.
- l. "First Approval" means the first of the following approvals to occur with respect to a housing development: specific plan, development agreement, planned development permit, tentative map, minor land division, use permit, design permit, building permit, or any other similar permit or entitlement listed this code.



m. "Household Income" means the combined adjusted gross household income for all adult persons living in a residential unit as calculated for the purpose of the Section 8 program under the United States Housing Act of 1937, as amended, or its successor provision.

"Very Low Income Household" shall have the same meaning as provided in California Health & Safety Code Section 50105.

"Lower Income Household" shall have the same meaning as provided in California Health & Safety Code Section 50079.5.

"Moderate Income Household" shall have the same meaning as provided in California Health & Safety Code Section 50093.

- n. "Housing Development," means one or more groups of projects for residential units in the planned development of the city. "Housing development" also includes a subdivision or common interest development, as defined in Section 1351 of the California Civil Code, approved by the city and consisting of residential units or unimproved residential lots and either a project to substantially rehabilitate and convert an existing commercial building to residential use or the substantial rehabilitation of an existing multifamily dwelling, as defined in subdivision (d) of Section 65863.4, where the result of the rehabilitation would be a net increase in available residential units. For the purpose of calculating a density bonus, the residential units shall be on contiguous sites that are the subject of one development application, but do not have to be based upon individual subdivision maps or parcels. For purposes of this chapter, "Housing Development" does not include projects for less than five (5) dwelling units.
- o. "Incentives and Concessions" are regulatory concessions as listed in section 9407 of this chapter.
- p. "Market-Rate Unit" means a dwelling unit which is not an affordable unit or an inclusionary unit.
- q. "Maximum Residential Density" means the maximum number of dwelling units permitted by the zoning ordinance and land use element of the general plan or, if a range of density is permitted, means the maximum allowable density for the specific zoning range and land use element of the general plan applicable to the project. Where the density allowed under the zoning ordinance is inconsistent with the density allowed under the land use element of the general plan, the general plan density shall prevail. The maximum allowable density is based on the date an application for a housing development is deemed complete. This definition is used to calculate a density bonus pursuant to this chapter.
- r. "Senior Citizen Housing Development" means senior citizen housing as defined in Section 51.3 (a housing development developed, substantially rehabilitated, or substantially renovated for senior citizens that has at least 35 dwelling units) and Section 51.12 of the California Civil Code, or a mobilehome park that limits



residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the Civil Code.

- s. "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. Mere inconsistency with the zoning ordinance or general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.

Section 9402 Density Bonuses for Affordable and Senior Citizen Housing.

A. Very Low and Lower Income Housing and Senior Citizen Housing. Upon written request to the city, an applicant for a housing development is eligible for one density bonus of twenty percent (20%) over the maximum residential density (except in the case of senior citizen housing, as provided below), provided that the applicant agrees to construct the housing development in accordance with one of the following criteria:

1. Five percent (5%) of the total dwelling units, excluding any units permitted by the density bonus, are provided at affordable rent or ownership costs to very low income households; or
2. Ten percent (10%) of the total dwelling units, excluding any units permitted by the density bonus, are provided at affordable rent or ownership costs to lower income households; or
3. A senior citizen housing development. For senior citizen housing developments, the density bonus shall be twenty percent (20%) of the number of senior housing units provided.

B. Moderate Income Housing. Upon written request to the city, an applicant for a housing development is eligible for one density bonus of five percent (5%) over the maximum residential density if the applicant agrees to construct the housing development in accordance with all of the following criteria:

1. At least ten percent (10%) of the total dwelling units, excluding any units permitted by the density bonus, are provided at affordable ownership costs to moderate income households; and
2. The housing development is a common interest project as defined by Section 1351 of the California Civil Code; and
3. All of the dwelling units in the housing development are offered for sale to the public.

C. Higher Density Bonus For Greater Contribution Of Affordable Units. Upon written request to the city, an applicant for a housing development that is eligible for a density bonus based upon the contribution of affordable units, may receive a higher amount of density



bonus if the percentage of very low, lower, and moderate income housing units exceeds the base percentage established in subsections (A) or (B) above, as follows:

1. Very low income units - For each one percent (1%) increase above five percent (5%) in affordable units for very low income households, the density bonus shall be increased by two and one-half percent (2.5%) up to a maximum of thirty-five percent (35%), as follows:

<u>Percentage Very Low Income Units</u>	<u>Percentage Density Bonus</u>
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35

2. Lower income units - For each one percent (1%) increase above ten percent (10%) in affordable units for lower income households, the density bonus shall be increased by one and one-half percent (1.5%) up to a maximum of thirty-five percent (35%), as follows:

<u>Percentage Low Income Units</u>	<u>Percentage Density Bonus</u>
10	20
11	21.5
12	23
13	24.5
14	26
15	27.5
17	30.5
18	32
19	33.5
20	35

3. Moderate income ownership units - For each one percent (1%) increase above ten percent (10%) in affordable units offered for sale to moderate income households, the density bonus shall be increased by one percent (1%) up to a maximum of thirty-five percent (35%), as follows:

<u>Percentage Moderate Income Units</u>	<u>Percentage Density Bonus</u>
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10	5
11	6
12	7
13	8
14	9
15	10
16	11
17	12
18	13
19	14
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30	25
31	26
32	27
33	28
34	29
35	30
36	31
37	32
38	33
39	34
40	35

D. Continued Affordability. Affordable units qualifying a housing development for a density bonus shall remain affordable as follows:

- a. Very low income, low income and moderate household units shall remain affordable to the designated income group for a minimum of thirty (30) years, or for a longer period of time if required by any construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program applicable to the dwelling units.
- b. Each household unit shall remain affordable for the period set forth in paragraph a. above unless circumstances require the household to sell and they are unable to find qualified buyers in which event an equity sharing repayment to the City or the Agency Low and Moderate Income Housing Fund shall be required.



- c. Notwithstanding the foregoing, very low-, low-, and moderate-income units in housing developments qualified for a density bonus that are located in or found by the redevelopment agency to benefit a redevelopment project area shall remain at an affordable level for a period of not less than forty-five (45) years for owner-occupied units, and not less than fifty-five (55) years for rental units, in accordance with applicable provisions of the California Community Redevelopment Law (Health and Safety Code Section 33000 et seq.).
- d. Any contract, deed restriction, or other instrument used to implement the continued affordability pursuant to this section, shall be signed by the applicant and by the city as parties. If the housing development is located in or found by the redevelopment agency to benefit a redevelopment project area, such contract, deed restriction, or other instrument shall be signed by the redevelopment agency as a party or, at the redevelopment agency's election, the contract, deed restriction, or other instrument shall identify the redevelopment agency as an express third-party beneficiary with the right to enforce the terms of such contract, deed restriction, or other instrument.

E. Specification of Basis For Density Bonus. Each applicant who requests a density bonus pursuant to Section 9403(A), shall elect whether the bonus will be awarded on the basis of subsection (A)(1), (A)(2), (A)(3) or subsection (B) of this section. Each housing development is entitled to only one density bonus, which may be selected based on the percentage of either very low income affordable housing units, lower-income affordable housing units or moderate-income affordable housing units, or the development's status as a senior citizen housing development. Density bonuses from more than one of these categories may not be combined.

Section 9403 Additional Density Bonus for Donations of Land.

A. Upon written request, when an applicant for a tentative map, subdivision map, parcel map, or other residential development approval qualified for a density bonus pursuant to Section 9402 also donates land to the city in accordance with this section, the applicant shall be entitled to an additional density bonus. Applicants donating land to the city shall be eligible for an additional fifteen percent (15%) density bonus at the site of the housing development if the donated land is suitable for the construction of very low income units equaling at least ten percent (10%) of the market-rate units being constructed for the project. The density bonus provided pursuant to this section shall be in addition to any density bonus granted pursuant to Section 9402, up to a maximum combined density bonus of thirty-five percent (35%).

B. To qualify for the additional density bonus described in subsection A of this Section 9403 the donation of land must meet all of the following criteria:

1. The tentative map, subdivision map, parcel map, or other residential development must otherwise be subject to a density bonus pursuant to Section 9402; and
2. The land must be transferred no later than the date of the approval of the final subdivision map, parcel map, or housing development application; and



3. The developable acreage and zoning classification of the land being transferred must be sufficient to permit construction of dwelling units affordable to very low income households in an amount not less than ten percent (10%) of the total number of market rate dwelling units in the proposed development (i.e., the proposed development before the addition of any density bonus); and
4. The donated land is at least one acre in size or is large enough to permit development of at least forty (40) units, has the appropriate general plan land use designation, has the appropriate zoning and development standards for affordable housing and, at the time of project approval is, or at the time of construction will be, served by adequate public facilities and infrastructure; and
5. No later than the date of approval of the final map, parcel map, or other development application for the housing development, the donated land must have all of the applicable permits and approvals (other than building permits) necessary for the development of the very low income housing units on the donated land, except that the city may subject the proposed housing development to subsequent design review to the extent authorized by California Government Code Section 65583.2 subsection (i) if the design is not reviewed by the city prior to the time of transfer; and
6. The donated land is subject to a deed restriction ensuring continued affordability of the very low income units consistent with Section 9402(D), which deed restriction shall be recorded upon the donated property at the time of its transfer; and
7. The land will be transferred to the city, the redevelopment agency of the city, or to a housing developer approved by the city. The city reserves the right to require the applicant to identify a developer and to require that the land be transferred to that developer; and
8. The land is within the boundary of the proposed housing development or within one-quarter mile of the boundary of the proposed housing development ; and
9. No later than the date of approval of the final map, parcel map, or other development application for the housing development, a proposed source of funding for the construction of the very low income units shall be identified.

C. Additional Density Bonus Based On Greater Suitability Of Land For Very Low Income Housing. For each one percent (1%) increase above the minimum ten percent (10%) in the number of very low income housing units that can be accommodated on the donated land, the maximum density bonus shall be increased by one percent (1%), up to a maximum of thirty-five percent (35%), as follows:

<u>Percentage of Very Low Income Units That Can Be</u>	<u>Percentage of Additional Density Bonus</u>
--	---



<u>Accommodated on Donated Land</u>	
10	15
11	16
12	17
13	18
14	19
15	20
16	21
17	22
18	23
19	24
20	25
21	26
22	27
23	28
24	29
25	30
26	31
27	32
28	33
29	34
30	35

Section 9404 Density Bonus & Incentives for Condominium Conversions.

A. An applicant for a conversion of existing rental apartments to condominiums is eligible for either a density bonus or other incentives of equivalent financial value, at the option of the city, if the applicant agrees to provide: (i) at least thirty-three percent (33%) of the total units of the proposed condominium project to persons and families of low or moderate income as defined in Section 50093 of the Health and Safety Code, *or* (ii) at least fifteen percent (15%) of the total units of the proposed condominium project to lower income households as defined in Section 50079.5 of the Health and Safety Code, *and* (iii) the applicant agrees to pay for the reasonably necessary administrative costs incurred by the city pursuant to this Section.

B. Condominium conversions qualified under Subsection (A), above, may receive one of the following, at the city's option:

1. A flat density bonus of twenty-five percent (25%) to be provided within the existing structure or structures proposed for conversion, excepting that a condominium conversion is ineligible for this bonus if the apartments to be converted originally received a density bonus or incentives pursuant to any other



provisions of this Chapter 4 or pursuant to California Government Code Section 65915. An applicant may choose to implement a lower density bonus.

2. Incentives of equivalent financial value in the form of a reduction or waiver of requirements or fees which the city might otherwise apply as conditions of conversion approval. "Other incentives of equivalent financial value" shall not be construed to require the city to provide cash transfer payments or other monetary compensation to the condominium conversion project or its applicant.

C. The city reserves the right to place such reasonable conditions on the granting of a density bonus or other incentives of equivalent financial value pursuant to this Section as it finds appropriate, including, but not limited to, conditions which assure continued affordability of units to subsequent purchasers who are persons and families of low and moderate income or lower income households.

D. Condominium conversions are eligible only for the granting of a density bonus or incentive of equivalent value pursuant to this Section 9404, which bonus or incentive may not be granted in addition to, or combined with, any other incentives, concessions, density bonuses or waivers and reductions of development standards pursuant other sections of this Chapter 4. Nothing in this section shall be construed to require the city to approve a proposal to convert rental apartments into condominiums.

Section 9405 Density Bonus & Concessions/Incentive for Child Care Facilities.

A. A housing development that is eligible for a density bonus pursuant to Section 9402, above, and also includes a child care facility qualified under this Section 9405 is eligible for either of the following, at the option of the city, if requested in writing by the applicant:

1. An additional density bonus that is an amount of square feet of residential space that is equal to or greater than the amount of square feet in the child care facility; or
2. An additional concession or incentive that contributes significantly to the economic feasibility of the construction of the child care facility.

B. A child care facility will only qualify the housing development for an additional density bonus or incentive or concession if it is (i) located on the premises of, as part of, or adjacent to the housing development, and (ii) the housing development is otherwise eligible for a density bonus pursuant to Section 9402. As a condition of approving the additional density bonus for the housing development, the child care facility must meet all of the following criteria:

1. The child care facility may be used only for child care for a period of time that is as long as or longer than the period of time during which the affordable units are required to remain affordable as stated in deed restrictions and pursuant to section 9402(D); and
2. Of the children who attend the child care facility, the percentage of children of very low income households, lower income households, or moderate income



households shall be equal to or greater than the percentage of dwelling units that are proposed to be affordable to very low income households, lower income households, or moderate income households pursuant to section 9402.

C. Notwithstanding any requirement of this Section, the city shall not be required to provide a density bonus or concession or incentive for a child care facility if it makes a written finding, based upon substantial evidence, that the community already has adequate child care facilities.

Section 9406 General Provisions Governing Density Bonus Calculations.

A. For the purposes of any provisions in this Chapter 4, an applicant may elect to accept a lesser percentage of density bonus than that to which the housing development is eligible.

B. When calculating the number of permitted density bonus units, any calculations resulting in fractional units shall be rounded up to the next larger whole number.

C. For the purpose of calculating a density bonus, the dwelling units shall be on contiguous sites that are the subject of one development application, but do not have to be based upon individual subdivision maps or parcels. The density bonus shall be permitted in geographic areas of the housing development other than the areas where the affordable units are located.

D. For the purposes of this Chapter 4, the "total units" or "total dwelling units" in a housing development does not include those units added by any density bonus.

E. Regardless of the number or extent of affordable units, senior housing, land dedication, child care facilities or other qualifications for a density bonus provided in any single housing development, no housing development may be entitled to a total density bonus of more than thirty-five percent (35%).

TABLE 1: Density Bonus Summary

Types of Affordable Units Providing Eligibility for a Density Bonus	Minimum %	Bonus Granted	Additional Bonus for Each 1% Increase in Affordable Units	% Affordable Units Required for Maximum 35% Bonus
A density bonus may be selected from only one category, except that bonuses for land donation may be combined with others, up to a maximum of 35%, and an additional sq. ft. bonus may be granted for a child care facility.				
Affordable Housing				
- Very low income	5%	20%	2.5%	11%
- Lower income	10%	20%	1.5%	20%
- Moderate income (ownership units only)	10%	5%	1%	40%
Senior citizen housing	Qualified senior citizen housing development	20% of the senior citizen housing units	--	--
Land donation for very low income housing	Land donated can accommodate 10% of market rate units, plus housing development qualifies for density bonus as an affordable or senior project.	15%	1%	30% of market-rate units (assuming housing development provides 5% very low income units)
Condominium Conversion				
- Lower income	15%	25% ⁽¹⁾	--	--
- Low/Mod income	33%	25% ⁽¹⁾	--	--
Child care facility	Housing development qualifies for density bonus as an affordable or senior project.	Sq. ft. in child care facility ⁽¹⁾	--	--

Notes:

⁽¹⁾ Maximum of 25% bonus for condominium conversions, or an incentive of equal value, at the city's option.



Section 9407 Incentives and Concessions for Affordable Housing.

A. Definition Of A Qualified Concession Or Incentive. An applicant for a density bonus pursuant to Section 9402 may also submit to the city a written proposal for specific incentives or concessions as provided in this Section. The applicant may also request a meeting with the Director to discuss such proposal. For purposes of this chapter, concessions and incentives include any of the following:

1. Reductions in site development standards or modifications of zoning requirements or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the California Health & Safety Code. These include, without limitation, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required. In order to qualify as a "concession or incentive," the city must be able to find that the requested reductions in site development standards result in identifiable, financially sufficient, and actual cost reductions.
2. Approval of mixed use zoning in conjunction with the housing development 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 development and the existing or planned development in the area where the proposed housing development will be located; or
3. Other regulatory incentives or concessions proposed by the applicant or the city, so long as the city can find that such proposals result in identifiable, financially sufficient, and actual cost reductions.

B. Findings To Deny Concession Or Incentive. The city shall grant the concession or incentive requested by the applicant unless the city makes a written finding, based upon substantial evidence, of any of the following:

1. The concession or incentive is not required in order to provide for affordable housing costs or for affordable rents for the targeted units to be set as specified in Section 9202; or
2. The concession or incentive would have a specific adverse impact; or
3. The concession or incentive would be contrary to State or Federal Law.

C. Number Of Concessions Or Incentives. If all other provisions of this Section are satisfied, an applicant will be eligible for the following number of incentives and concessions:

1. One incentive or concession for housing developments where at least five percent (5%) of the total units are for very low income households, at least ten percent (10%) of the total units are for lower income households, or at least ten percent



(10%) of the total units in a common interest development are sold to moderate income households; or

2. Two incentives or concessions for housing developments where at least ten percent (10%) of the total units are for very low income households, at least twenty percent (20%) of the total units are for lower income households, or at least twenty percent (20%) of the total units in a common interest development are sold to moderate income households.
3. Three incentives or concessions for housing developments where at least fifteen percent (15%) of the total units are for very low income households, at least twenty percent (30%) of the total units are for lower income households, or at least twenty percent (30%) of the total units in a common interest development are sold to moderate income households.

TABLE 2: Incentives and Concessions Summary

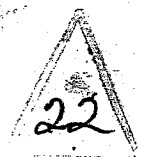
Affordable units or Category	% of Affordable units		
Pursuant to State Density Bonus			
Affordable Housing			
- Very low income	5%	10%	15%
- Lower income	10%	20%	30%
- Moderate income (ownership units only)	10%	20%	30%
Maximum Incentive(s)/Concession(s)⁽¹⁾⁽²⁾⁽³⁾	1	2	3
Notes:			
(1) An incentive or concession may be requested only if an application is also made for a density bonus.			
(2) Incentives or concessions may be selected from only one category (very low, lower, or moderate).			
(3) No incentives or concessions are available for land donation.			

D. This Section does not limit or require the provision of direct financial incentives for the housing development, including the provision of publicly-owned land, by the city or the waiver of fees or dedication requirements. Nor does any provision of this section require the city to grant an incentive or concession found to have a specific adverse impact.

E. The granting of a concession or incentive shall not be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary approval.

Section 9408 Waivers & Modifications of Development Standards.

A. Applicants granted a density bonus pursuant to Section 9402 may, by written proposal, seek a waiver, modification or reduction of development standards that would otherwise have the effect of physically precluding the construction of the housing development



at the densities or with the concessions or incentives permitted pursuant to this chapter. The applicant may also request a meeting with the city to discuss such request for waiver and modifications.

B. In order to obtain a waiver or modification of development standards, the applicant shall show that the development standards will have the effect of precluding the construction of a housing development meeting the criteria of Section 9402(A), at the densities or with the concessions or incentives permitted by this chapter.

C. A proposal for the waiver or reduction of development standards pursuant to this Section shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to Section 9407.

D. The city may deny a request for any waiver, modification or reduction of development standards if the waiver, modification or reduction would have a specific adverse impact.

Section 9409 Parking Incentives.

Upon the written request of the applicant for a housing development meeting the criteria for a density bonus under Section 9402, the city shall not require a vehicular parking ratio that exceeds the following:

1. Zero to one-bedroom units: one on-site parking space.
2. Two to three-bedroom units: two on-site parking spaces.
3. Four and more bedroom units: two and one-half parking spaces.

Guest parking and handicapped parking shall be included within the maximum number of spaces that may be required. 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 section, a housing development may provide on-site parking through tandem parking or uncovered parking, but not through on-street parking. For purposes of this chapter, the parking ratios set forth in this Section shall be deemed a concession or incentive available to the applicant under Section 9407.

Section 9410 Standards for Density Bonus Housing Developments.

A. Affordable units qualifying a housing development for a density bonus shall be reasonably dispersed throughout the housing development and compatible with the design of market-rate units in terms of appearance, materials, and finished quality. The applicant may reduce the interior amenities and square footage of inclusionary units, provided all units conform to all other requirements of the Carson Municipal Code.

B. For developments with multiple market-rate units containing differing numbers of bedrooms, affordable units qualifying a housing development for a density bonus shall be representative of the market-rate unit mix.

C. All building permits for affordable units qualifying a housing development for a density bonus shall be issued concurrently with, or prior to, issuance of building permits for the market rate units, and the affordable units shall be constructed concurrently with, or prior to, construction of the market rate units. Occupancy permits and final inspections for affordable units qualifying a housing development for a density bonus shall be approved concurrently with, or prior to, approval of occupancy permits and final inspections for the market rate units.

Section 9411 Application Requirements.

A. An application for a density bonus, incentive, concession, waiver, modification, or revised parking standard pursuant to this section shall be submitted with the first approval of the housing development and processed concurrently with all other applications required for the housing development in compliance with Section 9173.1 of the Carson Municipal Code. Further, a qualified density bonus application providing affordable housing shall be exempt from CMC Section 9172.21 "Conditional Use Permit", however, all density bonus applications for affordable housing shall be subject CMC Section 9172.23 "Site Plan and Design Review".

B. For affordable units qualifying the housing development for a density bonus, the application shall include the following information:

1. A site plan identifying the base project without the density bonus, number and location of all inclusionary units, affordable units qualifying for the project for a density bonus, and proposed density bonus units; and
2. Proposed category(-ies) qualifying the housing development for a density bonus; and
3. Level of affordability of all affordable and inclusionary units and proposals for ensuring affordability, if applicable; and
4. A description of any requested incentives, concessions, waivers or modifications of development standards, or modified parking standards.
5. If a density bonus or concession is requested for a land donation, the application shall show the location of the land to be dedicated and provide evidence that each of the findings included in Section 9403 can be made.
6. If the density bonus or incentives of equivalent financial value are based upon a condominium conversion with affordable units or senior citizen housing, the application shall demonstrate that the project meets the qualifications for a density bonus applicable to such projects under this chapter.
7. If a density bonus or concession is requested for a child care facility, the application shall show the location and square footage of the child care facility and provide evidence that the findings included in Section 9405 can be made.

C. Upon submission of the application to the city, the Director shall determine if the application is complete and conforms to the provisions of the requirements hereof and the

requirements of Section 9173.1 of the Carson Municipal Code. No application for a first approval for a housing development requesting a density bonus, incentives, concessions, or waivers may be deemed complete unless an affordable and or qualified senior housing plan is submitted conforming to the provisions of this chapter.

D. A request for a minor modification of an approved application may be granted by the Director if the modification is substantially in compliance with the original application and the conditions of approval. Other modifications to the affordable housing plan shall be processed in the same manner as the original application.

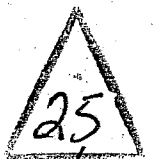
Section 9412 Application Review.

A. An application for a density bonus, incentive, concession, waiver, modification, or revised parking standard pursuant to this chapter shall be reviewed as part of the first approval of the housing development. Such application shall be submitted to the Director pursuant to Section 9173.1 of this Municipal Code. An applicant proposing a housing development pursuant to this chapter, may submit a preliminary application prior to the submittal of any formal request for approval of a housing development.

B. Within ninety (90) days of receipt of the preliminary application the city shall provide to an applicant, a letter which identifies project issues of concern (the maximum financial assistance that the Director can support when making a recommendation to the city council), and the procedures for compliance with this chapter. The Director shall inform the applicant that the requested additional incentives shall be recommended for consideration with the proposed housing development, or that alternative or modified additional incentives shall be recommended for consideration in lieu of the requested incentives. If alternative or modified incentives are recommended by the Director, the recommendation shall establish how the alternative or modified incentives can be expected to have an equivalent affordability effect as the requested incentives.

C. Before approving an application for a density bonus, incentive, concession, waiver, or modification, the approval body shall make the following findings:

1. The housing development is (i) eligible for a density bonus, and/or (ii) any concessions, incentives, waivers, modifications, or reduced parking standards requested conform to all requirements of this chapter, and (iii) supported by a financing mechanism for all implementation and monitoring costs.
2. If the density bonus is based all or in part on dedication of land, the application meets the qualifications and findings stated in Section 9403.
3. If the density bonus or incentives of equivalent financial value are based upon a condominium conversion with affordable units or senior citizen housing, that the application meets the qualifications for a density bonus applicable to such projects under this chapter



4. If the density bonus, incentive, or concession is based all or in part on the inclusion of a child care facility, the application meets the qualifications and findings stated in Section 9405.
5. If a waiver or modification is requested, the applicant has shown that the waiver, modification or reduction of development standards meets the qualifications and findings stated in Section 9408.

D. If the findings stated in subpart (C) of this Section 9412 can be made, and a request for an incentive or concession is otherwise consistent with this chapter, the approval body may deny a concession or incentive based upon written findings of any of the factors stated in Section 9407(B) for the denial or disqualification of a concession or incentive.

E. If the required findings stated in subpart (C) of this Section 9412 can be made, and a request for a waiver or modification is otherwise consistent with this chapter, the approval body may deny the requested waiver or modification based upon written findings of any of the factors stated in 9408(D) for the denial or disqualification of a waiver or modification.

F. Nothing in this section shall be interpreted to require the city to grant an incentive or concession or to waive or reduce development standards if that incentive, concession, waiver, or reduction has a specific adverse impact upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact.

G. Any decision regarding a density bonus, incentive, concession, waiver, modification, or revised parking standard may be appealed as provided in Section 9173.4 of the Carson Municipal Code. In accordance with State law, neither the granting of a concession or incentive, nor the granting of a density bonus, shall be interpreted, in and of itself, to require a general plan amendment, zoning change, or other discretionary approval.

Section 9413 Developer Affordable Housing Agreement.

A. Applications requesting a density bonus shall agree to enter into a density bonus housing agreement with the city. The terms of the draft agreement shall be reviewed and revised as appropriate by the Director, who shall formulate a recommendation to the planning commission for final approval. A density bonus housing agreement shall be made a condition of the discretionary planning permits for all housing developments pursuant to this chapter and shall be recorded as a restriction on any parcels on which the affordable units or density bonus units will be constructed.

B. The density bonus housing agreement shall be recorded prior to final or parcel map approval, or, where the housing development does not include a map, prior to issuance of a building permit for any structure in the housing development. The density bonus housing agreement shall run with the land and bind future owners and successors in interest."



Section 3. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each and every section, subsection, sentence, clause and phrase thereof not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

Section 4. The City Clerk is hereby directed to certify the passage and adoption of this Ordinance and cause it to be published or posted as required by law.

[CONTINUED ON FOLLOWING PAGE]



First read at a regular meeting of the City Council held on the ___ day of _____, 2010 and adopted and ordered published at a regular meeting of said Council held on the ___ day of _____, 2010.

Mayor Jim Dear

ATTEST:

City Clerk Helen S. Kawagoe

City Manager Jerome G. Groomes

APPROVED AS TO FORM:

City Attorney



State of California)
) SS
County of Los Angeles)

I, the undersigned, City Clerk of the City of Carson, California, do hereby certify that the foregoing Ordinance No. ___ was duly introduced at an adjourned regular meeting of the City Council held on the ___ day of _____, 2010, and was duly approved and adopted at a regular meeting of said Council held on the ___ day of _____, 2010, by the following roll call vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

City Clerk, City of Carson



GOVERNMENT CODE

SECTION 65915-65918

65915. (a) When an applicant seeks a density bonus for a housing development within, or for the donation of land for housing within, the jurisdiction of a city, county, or city and county, that local government shall provide the applicant incentives or concessions for the production of housing units and child care facilities as prescribed in this section. All cities, counties, or cities and counties shall adopt an ordinance that specifies how compliance with this section will be implemented.

(b) A city, county, or city and county shall grant a density bonus and incentives or concessions described in subdivision (d) when the applicant for the housing development seeks and agrees to construct at least any one of the following:

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

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

(3) A senior citizen housing development as defined in Sections 51.3 and 51.12 of the Civil Code.

(4) Ten percent of the total dwelling units in a condominium project as defined in subdivision (f) of, or in a planned development as defined in subdivision (k) of, Section 1351 of the Civil Code, for persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code.

(c) (1) An applicant shall agree to, and the city, county, or city and county shall ensure, continued affordability of all lower income density bonus units for 30 years or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program. Those units targeted for lower income households, as defined in Section 50079.5 of the Health and Safety Code, shall be affordable at a rent that does not exceed 30 percent of area median income. Those units targeted for very low income households, as defined in Section 50105 of the Health and Safety Code, shall be affordable at a rent that does not exceed 30 percent of 50 percent of area median income.

(2) An applicant shall agree to, and the city, county, or city and county shall ensure that, the initial occupant of the moderate-income units that are directly related to the receipt of the density bonus in the condominium project as defined in subdivision (f) of, or in the planned unit development as defined in subdivision (k) of, Section 1351 of the Civil Code, are persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code. Upon resale, the seller of the unit shall retain the value of any improvements, the downpayment, and the seller's proportionate share of appreciation. The local government shall recapture its proportionate share of appreciation, which shall then be used within three years for any of the purposes described in subdivision (e) of Section 33334.2 of the Health and Safety Code that promote homeownership. For purposes of this subdivision, the local government's proportionate share of appreciation shall be equal to the percentage by which the initial sale price to the moderate-income

EXHIBIT NO. 3 -

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household was less than the fair market value of the home at the time of initial sale.

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

(A) The concession or incentive is not required in order to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).

(B) The concession or incentive would have a specific adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households.

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

(A) One incentive or concession for projects that include at least 10 percent of the total units for lower income households, at least 5 percent for very low income households, or at least 10 percent for persons and families of moderate income in a condominium or planned development.

(B) Two incentives or concessions for projects that include at least 20 percent of the total units for lower income households, at least 10 percent for very low income households, or at least 20 percent for persons and families of moderate income in a condominium or planned development.

(C) Three incentives or concessions for projects that include at least 30 percent of the total units for lower income households, at least 15 percent for very low income households, or at least 30 percent for persons and families of moderate income in a condominium or planned development.

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



sites. These procedures shall include, but not be limited to, such items as minimum lot size, side yard setbacks, and placement of public works improvements.

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

(f) The applicant shall show that the waiver or modification is necessary to make the housing units economically feasible.

(g) (1) For the purposes of this chapter, except as provided in paragraph (2), "density bonus" means a density increase of at least 20 percent, unless a lesser percentage is elected by the applicant, 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 applicant to the city, county, or city and county. The amount of density bonus to which the applicant is entitled shall vary according to the amount by which the percentage of affordable housing units exceeds the percentage established in subdivision (b). For each 1 percent increase above 10 percent in the percentage of units affordable to lower income households, the density bonus shall be increased by 1.5 percent up to a maximum of 35 percent. For each 1 percent increase above 5 percent in the percentage of units affordable to very low income households, the density bonus shall be increased by 2.5 percent up to a maximum of 35 percent. All density calculations resulting in fractional units shall be rounded up to the next whole number. The granting of a density bonus shall not be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary approval. The density bonus shall not be included when determining the number of housing units that is equal to 5 or 10 percent of the total. The density bonus shall apply to housing developments consisting of five or more dwelling units.

(2) For the purposes of this chapter, if a development does not meet the requirements of paragraph (1), (2), or (3) of subdivision (b), but the applicant agrees or proposes to construct a condominium project as defined in subdivision (f) of, or a planned development as defined in subdivision (k) of, Section 1351 of the Civil Code, in which at least 10 percent of the total dwelling units are reserved for persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code, a "density bonus" of at least 5 percent shall be granted, unless a lesser percentage is elected by the applicant, 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 applicant to the city, county, or city and county. For each 1 percent increase above 10 percent of the percentage of units affordable to moderate-income households, the density bonus shall be increased by 1 percent up to a maximum of 35 percent. All density calculations resulting in fractional units shall be rounded up to the next whole number. The granting of a density bonus shall not be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary approval. The density bonus shall not be included when determining the number of housing units that is equal to 10 percent of the total. The density bonus shall apply to housing developments consisting of five or more dwelling units.

(h) When an applicant for a tentative subdivision map, parcel map, or other residential development approval donates land to a city, county, or city and county as provided for in this subdivision, the applicant shall be entitled to a 15 percent increase above the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the general plan for the entire development. For each 1 percent increase above the minimum 10 percent land donation described in paragraph (2) of this subdivision, the density bonus shall be increased by 1 percent, up to a maximum of 35 percent. This increase shall be in addition to any increase in density mandated by subdivision (b), up to a maximum combined mandated density increase of 35 percent if an applicant seeks both the increase required pursuant to this subdivision and subdivision (b). All density calculations resulting in fractional units shall be rounded up to the next whole number. Nothing in this subdivision shall be construed to enlarge or diminish the authority of a city, county, or city and county to require a developer to donate land as a condition of development. An applicant shall be eligible for the increased density bonus described in this subdivision if all of the following conditions are met:

(1) The applicant donates and transfers the land no later than the date of approval of the final subdivision map, parcel map, or residential development application.

(2) The developable acreage and zoning classification of the land being transferred are sufficient to permit construction of units affordable to very low income households in an amount not less than 10 percent of the number of residential units of the proposed development.

(3) The transferred land is at least one acre in size or of sufficient size to permit development of at least 40 units, has the appropriate general plan designation, is appropriately zoned for development as affordable housing, and is or will be served by adequate public facilities and infrastructure. The land shall have appropriate zoning and development standards to make the development of the affordable units feasible. No later than the date of approval of the final subdivision map, parcel map, or of the residential development, the transferred land shall have all of the permits and approvals, other than building permits, necessary for the development of the very low income housing units on the transferred land, except that the local government may subject the proposed development to subsequent design review to the extent authorized by subdivision (i) of Section 65583.2 if the design is not reviewed by the local government prior to the time of transfer.

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



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

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

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

(A) An additional density bonus that is an amount of square feet of residential space that is equal to or greater than the amount of square feet in the child care facility.

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

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

(A) The child care facility shall remain in operation for a period of time that is as long as or longer than the period of time during which the density bonus units are required to remain affordable pursuant to subdivision (c).

(B) Of the children who attend the child care facility, the children of very low income households, lower income households, or families of moderate income shall equal a percentage that is equal to or greater than the percentage of dwelling units that are required for very low income households, lower income households, or families of moderate income pursuant to subdivision (b).

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

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

(j) "Housing development," as used in this section, means one or more groups of projects for residential units constructed in the planned development of a city, county, or city and county. For the purposes of this section, "housing development" also includes a subdivision or a planned unit development or condominium project, as defined in Section 1351 of the Civil Code, approved by a city, county, or city and county and consists of residential units or unimproved residential lots and either a project to substantially rehabilitate and convert an existing commercial building to residential use or the substantial rehabilitation of an existing multifamily dwelling, as defined in subdivision (d) of Section 65863.4, where the result of the rehabilitation would be a net increase in available residential units. For the purpose of calculating a density bonus, the residential units do not have to be based upon individual subdivision maps or parcels. The density bonus shall be permitted in geographic areas of the housing development other than the areas where the units for the lower income households are located.

(k) The granting of a concession or incentive shall not be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary



approval. This provision is declaratory of existing law.

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

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

(2) Approval of mixed use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if the commercial, office, industrial, or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located.

(3) Other regulatory incentives or concessions proposed by the developer or the city, county, or city and county that result in identifiable, financially sufficient, and actual cost reductions.

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

(m) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code).

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

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

(1) "Development standard" includes site or construction conditions that apply to a residential development pursuant to any ordinance, general plan element, specific plan, charter amendment, or other local condition, law, policy, resolution, or regulation.

(2) "Maximum allowable residential density" means the density allowed under the zoning ordinance, or if a range of density is permitted, means the maximum allowable density for the specific zoning range applicable to the project.

(p) (1) Upon the request of the developer, no city, county, or city and county shall require a vehicular parking ratio, inclusive of handicapped and guest parking, of a development meeting the criteria of subdivision (b), that exceeds the following ratios:

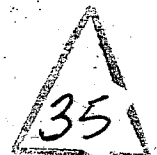
(A) Zero to one bedrooms: one onsite parking space.

(B) Two to three bedrooms: two onsite parking spaces.

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

(2) If the total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number. For purposes of this subdivision, a development may provide "onsite parking" through tandem parking or uncovered parking, but not through onstreet parking.

(3) This subdivision shall apply to a development that meets the requirements of subdivision (b) but only at the request of the applicant. An applicant may request additional parking incentives or



concessions beyond those provided in this section, subject to subdivision (d).

65915.5. (a) When an applicant for approval to convert apartments to a condominium project agrees to provide at least 33 percent of the total units of the proposed condominium project to persons and families of low or moderate income as defined in Section 50093 of the Health and Safety Code, or 15 percent of the total units of the proposed condominium project to lower income households as defined in Section 50079.5 of the Health and Safety Code, and agrees to pay for the reasonably necessary administrative costs incurred by a city, county, or city and county pursuant to this section, the city, county, or city and county shall either (1) grant a density bonus or (2) provide other incentives of equivalent financial value. A city, county, or city and county may place such reasonable conditions on the granting of a density bonus or other incentives of equivalent financial value as it finds appropriate, including, but not limited to, conditions which assure continued affordability of units to subsequent purchasers who are persons and families of low and moderate income or lower income households.

(b) For purposes of this section, "density bonus" means an increase in units of 25 percent over the number of apartments, to be provided within the existing structure or structures proposed for conversion.

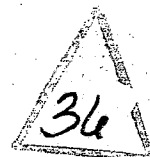
(c) For purposes of this section, "other incentives of equivalent financial value" shall not be construed to require a city, county, or city and county to provide cash transfer payments or other monetary compensation but may include the reduction or waiver of requirements which the city, county, or city and county might otherwise apply as conditions of conversion approval.

(d) An applicant for approval to convert apartments to a condominium project may submit to a city, county, or city and county a preliminary proposal pursuant to this section prior to the submittal of any formal requests for subdivision map approvals. The city, county, or city and county shall, within 90 days of receipt of a written proposal, notify the applicant in writing of the manner in which it will comply with this section. The city, county, or city and county shall establish procedures for carrying out this section, which shall include legislative body approval of the means of compliance with this section.

(e) Nothing in this section shall be construed to require a city, county, or city and county to approve a proposal to convert apartments to condominiums.

(f) An applicant shall be ineligible for a density bonus or other incentives under this section if the apartments proposed for conversion constitute a housing development for which a density bonus or other incentives were provided under Section 65915.

65916. Where there is a direct financial contribution to a housing development pursuant to Section 65915 through participation in cost of infrastructure, write-down of land costs, or subsidizing the cost of construction, the city, county, or city and county shall assure continued availability for low- and moderate-income units for 30 years. When appropriate, the agreement provided for in Section 65915 shall specify the mechanisms and procedures necessary to carry out this section.



65917. In enacting this chapter it is the intent of the Legislature that the density bonus or other incentives offered by the city, county, or city and county pursuant to this chapter shall contribute significantly to the economic feasibility of lower income housing in proposed housing developments. In the absence of an agreement by a developer in accordance with Section 65915, a locality shall not offer a density bonus or any other incentive that would undermine the intent of this chapter.

65917.5. (a) As used in this section, the following terms shall have the following meanings:

(1) "Child care facility" means a facility installed, operated, and maintained under this section for the nonresidential care of children as defined under applicable state licensing requirements for the facility.

(2) "Density bonus" means a floor area ratio bonus over the otherwise maximum allowable density permitted under the applicable zoning ordinance and land use elements of the general plan of a city, including a charter city, city and county, or county of:

(A) A maximum of five square feet of floor area for each one square foot of floor area contained in the child care facility for existing structures.

(B) A maximum of 10 square feet of floor area for each one square foot of floor area contained in the child care facility for new structures.

For purposes of calculating the density bonus under this section, both indoor and outdoor square footage requirements for the child care facility as set forth in applicable state child care licensing requirements shall be included in the floor area of the child care facility.

(3) "Developer" means the owner or other person, including a lessee, having the right under the applicable zoning ordinance of a city council, including a charter city council, city and county board of supervisors, or county board of supervisors to make application for development approvals for the development or redevelopment of a commercial or industrial project.

(4) "Floor area" means as to a commercial or industrial project, the floor area as calculated under the applicable zoning ordinance of a city council, including a charter city council, city and county board of supervisors, or county board of supervisors and as to a child care facility, the total area contained within the exterior walls of the facility and all outdoor areas devoted to the use of the facility in accordance with applicable state child care licensing requirements.

(b) A city council, including a charter city council, city and county board of supervisors, or county board of supervisors may establish a procedure by ordinance to grant a developer of a commercial or industrial project, containing at least 50,000 square feet of floor area, a density bonus when that developer has set aside at least 2,000 square feet of floor area and 3,000 outdoor square feet to be used for a child care facility. The granting of a bonus shall not preclude a city council, including a charter city council, city and county board of supervisors, or county board of supervisors from imposing necessary conditions on the project or on the additional square footage. Projects constructed under this section



shall conform to height, setback, lot coverage, architectural review, site plan review, fees, charges, and other health, safety, and zoning requirements generally applicable to construction in the zone in which the property is located. A consortium with more than one developer may be permitted to achieve the threshold amount for the available density bonus with each developer's density bonus equal to the percentage participation of the developer. This facility may be located on the project site or may be located offsite as agreed upon by the developer and local agency. If the child care facility is not located on the site of the project, the local agency shall determine whether the location of the child care facility is appropriate and whether it conforms with the intent of this section. The child care facility shall be of a size to comply with all state licensing requirements in order to accommodate at least 40 children.

(c) The developer may operate the child care facility itself or may contract with a licensed child care provider to operate the facility. In all cases, the developer shall show ongoing coordination with a local child care resource and referral network or local governmental child care coordinator in order to qualify for the density bonus.

(d) If the developer uses space allocated for child care facility purposes, in accordance with subdivision (b), for any purposes other than for a child care facility, an assessment based on the square footage of the project may be levied and collected by the city council, including a charter city council, city and county board of supervisors, or county board of supervisors. The assessment shall be consistent with the market value of the space. If the developer fails to have the space allocated for the child care facility within three years, from the date upon which the first temporary certificate of occupancy is granted, an assessment based on the square footage of the project may be levied and collected by the city council, including a charter city council, city and county board of supervisors, or county board of supervisors in accordance with procedures to be developed by the legislative body of the city council, including a charter city council, city and county board of supervisors, or county board of supervisors. The assessment shall be consistent with the market value of the space. Any penalty levied against a consortium of developers shall be charged to each developer in an amount equal to the developer's percentage square feet participation. Funds collected pursuant to this subdivision shall be deposited by the city council, including a charter city council, city and county board of supervisors, or county board of supervisors into a special account to be used for childcare services or child care facilities.

(e) Once the child care facility has been established, prior to the closure, change in use, or reduction in the physical size of, the facility, the city, city council, including a charter city council, city and county board of supervisors, or county board of supervisors shall be required to make a finding that the need for child care is no longer present, or is not present to the same degree as it was at the time the facility was established.

(f) The requirements of Chapter 5 (commencing with Section 66000) and of the amendments made to Sections 53077, 54997, and 54998, by Chapter 1002 of the Statutes of 1987 shall not apply to actions taken in accordance with this section.

(g) This section shall not apply to a voter-approved ordinance adopted by referendum or initiative.



65918. The provisions of this chapter shall apply to charter cities.

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