



Planning Commission Report

Meeting Date: May 23, 2013

Subject: Consider a List of Preferred Incentives for the Density Bonus Program, and Consider Reducing Minimum Floor Area for Multi-family Residential Units

Recommendation: Review development standards for inclusion on a list of preferred incentives for the City's density bonus program. Consider reducing the minimum floor area requirement for multi-family housing units.

REPORT SUMMARY

This report continues the discussion begun on February 14, 2013 on establishing a list of preferred incentives in the City's Density Bonus program and reducing the City's minimum unit size for affordable housing projects (Attachment 1). The February 14, 2013 study session report is provided as Attachment 1. Based on the Planning Commission's direction, staff has analyzed various potential density bonus incentives for a list of "preferred incentives", and analyzed reductions to the City's minimum unit size for multi-family residential housing that contain affordable housing units. With Planning Commission direction, staff will schedule a public hearing to consider a draft ordinance amending the City's Density Bonus Program and Density Bonus Program Guidelines.

BACKGROUND

Establishing a list of preferred incentives for the City's Density Bonus Program is Program 10.1 "Density Bonus" in the Housing Element, and has been identified by the State as one of the actions needed to maintain certification. A list can provide greater certainty to applicants developing Density Bonus projects and encourages the use of the listed incentives. Two of the potential incentives, modifying the development standards for single-lot development and reducing the minimum unit size, are specifically identified in Program 12.2 "Adjust Development Standards" in the Housing Element and were identified by the State as actions needed to maintain certification. Housing Element Programs 10.1 and 12.2 are provided in Attachment 2.

During the study session on February 14, 2013, the Planning Commission reviewed a potential list of incentives for the City's Density Bonus Program. From the proposed list provided, the Commission identified certain incentives it wished to consider further, after additional analysis had been conducted, for inclusion on the City's list of preferred incentives. An analysis of each of the selected incentives is

Attachment(s):

1. February 14, 2013 Study Session Report
2. Housing Element Programs
3. Government Code section 65915-65918
4. Health and Safety Code Section 50052- 50053
5. Affordable Housing Rates and Income
6. Height District Map
7. City's Density Bonus Program Guidelines

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provided in this report’s discussion section, including reducing the City’s minimum multi-family residential unit sizes for all units in affordable housing projects.

For reference, the State’s Density Bonus Program criteria are provided below.

State Density Bonus Program Criteria

Affordability of Housing Provided	Percentage of Units to be Affordable (% of total units)	Density Bonus Allowed (dwellings/ac)	Number of Development Incentives that can be Requested by the Applicant
Very Low Income	5%	20%	One
	10% +	2.5% add'l bonus for each 1% increase in affordable units, up to 35%	Two
	15% +		Three
Lower Income	10%	20%	One
	20% +	1.5% add'l bonus for each 1% increase in affordable units up to 35% max	Two
	30% +		Three
Moderate Income	10%	5%	One
	20% +	1% add'l bonus for each 1% increase in affordable units, up to 35%	Two
	30% +		Three

Based on the percentage of affordable units provided, a developer may request one, two, or three development incentives. The density bonus program and incentives apply to both new apartments and condominiums.

Use of Incentive Lists by Other Cities

Providing a list of preferred incentives can demonstrate which incentives a City finds more appropriate, thereby encouraging developers to use those incentives.

The Density Bonus Programs for the cities of Santa Monica, Los Angeles, Burbank, Anaheim, San Mateo, and Clovis were reviewed to determine how incentive lists are currently being reviewed.

Reviewing Body for Density Bonus Incentives in California Cities

	Approval of On-List Incentives	Approval of Off-List Incentives
Santa Monica	Director of Community Development	Planning Commission
Los Angeles		
Burbank	Director of Community Development (On-list Tier 1) Planning Commission (On-list Tier 2)	City Council
Anaheim	By-Right	Planning Commission
San Mateo	Director of Community Development	Director of Community Development
Clovis	Planning Commission	Planning Commission

By encouraging use of the incentives on their lists, developer’s uncertainty and processing time can be reduced if listed incentives are sought. The cities surveyed, except for the City of Clovis, make a distinction in their permitting processes for on-list incentives versus off-list incentives. Most often, the approval of on-list incentives is a director-level decision, approval of off-list incentives is referred to the Planning Commission or, in City of Burbank, to the City Council. Allowing the Director to approve “on-list” incentives encourages developers to use city-listed incentives by streamlining the incentive review process. A project as a whole would still need to be reviewed through the City’s applicable review processes.

All cities surveyed also require detailed financial information as one of their application requirements. The detailed financial information is requested to substantiate that the incentive is necessary in order to build the affordable units at the rental or sales rates set by the State¹.

Finances factor into a city's determination whether to approve an incentive. The density bonus program requires cities to approve the use of a proposed incentive unless the city finds, among other findings, that the incentive "is not required in order to provide for affordable housing costs...or for rents for the targeted units to the set..." (Govt. Code Sc. 65915 (d)(1)(A).) This Government Code language is provided in Attachment 3. Housing costs in this statement refer to the cost limits established by the State that can be charged for affordable housing (Attachment 4). To add context to "provide for affordable housing costs", information on affordable income categories, professional salaries, housing rents, and sales prices are provided in Attachment 5.

The information provided by the applicant when substantiating the need for the incentive should demonstrate how the proposed incentive would alter the costs for building the proposed affordable housing in such a way as to make up for the added costs, and potential income loss expected from selling or renting the affordable units at the State specified limits.

DISCUSSION

On February 14, 2013, the Planning Commission requested additional information on several possible development incentives. In requesting the additional information, the Planning Commission stated that it wanted to better understand the benefits and the concerns that could be associated with certain incentives before exploring the idea of providing a list of incentives in the City's density bonus program.

Incentives the Planning Commission wished to further explore are:

- Allowing a reduced rear setback,
- Allowing single-lot projects in the four- and five-story height districts to build to the height district maximum (refer to Height Districts Map, Attachment 6),
- Allowing an additional floor within existing height limits,
- Providing an option to count all required open space square footage toward required unit square footage,
- Reducing the minimum unit size,
- Allowing reduced side setbacks.

In evaluating each incentive, staff used the following average characteristics for multi-family properties in the City. This table does not take into consideration properties developed pursuant to specific plans and zoning overlays. The following figures were used in calculating additional square footage and units possible for the various incentives studied.

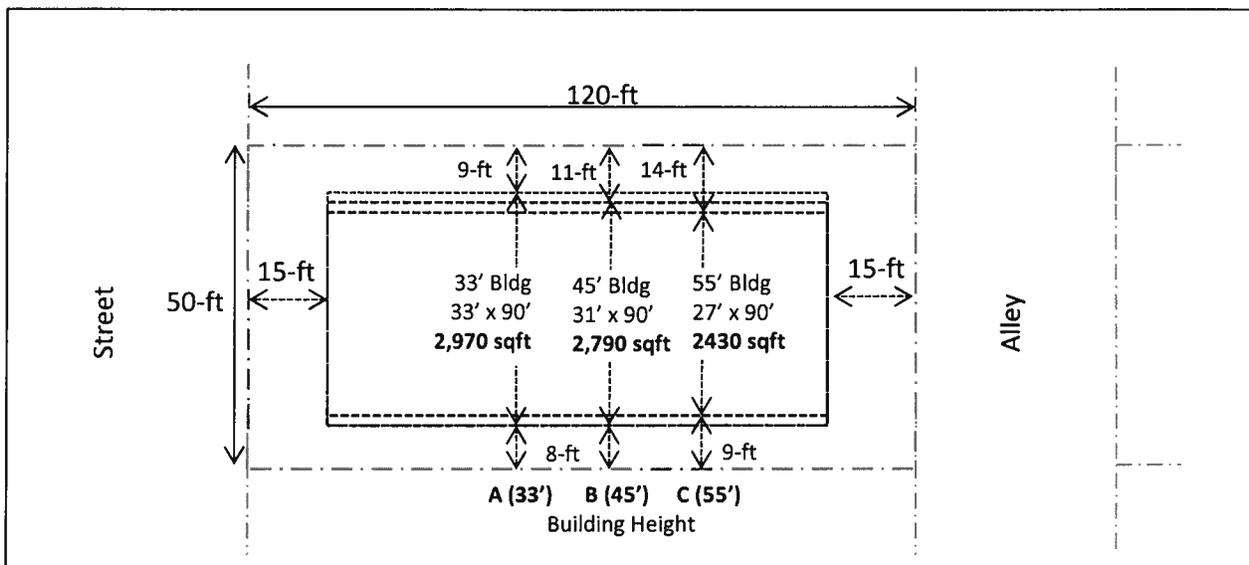
¹ The State sets the maximum rental rate and sales price for housing units based on income (Extremely Low, Very Low, Lower and Moderate) and adjusted for household size. Extremely Low rents are set at 30% of 30% of Area Median Income (AMI), Very Low rents are at 30% of 50% AMI, Lower rents are set at 30% of 60% AMI, and Moderate rents are set at 110% of AMI. AMI for Los Angeles County for a 4-person household is currently \$64,800.

Multi-Family Lot Size

Average Lot Width	50 - 60 Feet
Average Lot Depth	120 - 130 Feet
Average Lot Size	6,000 – 7,800 Square Feet

Multi-family lots are subject to 15-foot front and rear yard setbacks. They are also subject to side yard setbacks that increase with building height. This is intended to result in a smaller building footprint and narrower buildings in the 4- and 5-story height districts, thereby allowing more light and air between buildings.

Buildable Lot Area



The City's current minimum unit sizes for multi-family residential units are given below. The minimum unit size is based on the number of bedrooms.

Minimum Unit Size

Number of Bedrooms	Minimum Size
0 (Studio)	600 sf
1 Bedroom	1,000 sf
2 Bedrooms	1,300 sf
3+ Bedrooms	1,500 sf

While gathering additional information regarding potential incentives, staff consulted multifamily housing developers to better understand what incentives would be more desirable. Feedback from developers was used to inform the analysis and staff's recommendation.

Potential Development Incentives

Additional analysis is being provided for the incentives the Planning Commission wished to consider for inclusion on a list in the density bonus program:

A. Offering a Reduced Rear Yard Setback (BHMC 10-3-2808)

Adjusting setbacks can provide a larger building envelope, without increasing building height. Several developers indicated that setback reductions are desirable incentives. The City has granted a reduced rear setback in one density bonus case. A condominium project proposed at 9936 Durant Drive was granted a 10-foot rear setback, which is a reduction of 5-feet from the code standard of 15-feet (BHMC 10-3-2808).

The table below estimates the amount of additional building area possible given four different setback reduction scenarios (10%, 20%, 33%, and 50%). Shaded cells in the tables indicate that the building area square footage gained would be adequate to accommodate at least one studio unit, assuming the current minimum floor area requirement of 600 square feet is maintained.

A 33-percent rear setback is approximately a 5-foot reduction and a 50-percent rear setback reduction is a 7.5-foot reduction from the required 15-foot setback. It is expected that reducing rear setbacks, in most cases, should have little to no impact on the privacy of neighboring properties since the rear yard of most multi-family lots in the City abut alleys. Several Multi-family properties on Arnaz Drive have no alley separating them from single family properties and the Commission may wish to consider excluding properties such as these that do not abut an alley, commercial property or multi-family property.

Reduced Rear Yard Setback

Number of Lots (Project Area)	Allowable Stories	Project Width (ft)	Project Depth (ft)	Additional Square Footage			
				10% SB Reduction (1.5')	20% SB Reduction (3')	33% SB Reduction (~5')	50% SB Reduction (7.5')
1 lot (6,000 sq. ft.)	3	50	120	150	300	500	742.5
2 lots (12,000 sq. ft.)	4	100	120	480	975	1,600	2,430
3 lots (18,000 sq. ft.)	4	150	120	760	1,525	2,500	3,810

The following number of units could be built, assuming current minimum floor area requirements:

Reduced Rear Yard Setback – Unit Potential

Number of Lots (Project Area)	Reduced Rear-Yard - Additional Units Possible			
	10% SB Reduction (1.5')	20% SB Reduction (3')	33% SB Reduction (~5')	50% SB Reduction (~7.5')
1 lot	0	0	0	1 studio
2 lots	0	1 studio	1, 2-bdrm, or 1, 1-bdrm and 1 studio	1, 2-bdrms, or 1, 1-bdrm and 2 studios
3 lots	1 studio	1, 2-bdrm	1, 2-bdrm, or 1, 1-bdrm and 2 studios	2, 2-bdrms and 1, 1-bdrm or 3, 1-bdrm and 1 studio

A reduced rear yard setback could be meaningful, and is an incentive that the City has approved for a density bonus project in the past.

B. Allowing single-lot projects in the four- and five-story height districts to build to the height district maximum

There are three height districts in the City, and two of the height districts allow for buildings to be taller than 33-feet (refer to the Height District Map, Attachment 6). Height District B allows buildings to be 45 feet tall and Height District C allows buildings to be 55 feet tall. Regardless of the height district, buildings on lots less than 60-feet wide in all height districts are limited to 33 feet.

The chart below provides an estimate for the additional floor area and units possible if a 50-foot wide lot in the higher height districts was built to the height district maximum, rather than being capped at 33 feet. Reduced parking allowed through the State Density Bonus Program could allow a building on the relatively narrow 50-foot wide lots to provide parking for the increased number of units.

Single Lots Built to Height District Max – Unit Potential

Building Height	Average Lot Dimensions	Buildable Area (for a 6,000sqft lot)	Current Max Floor Area (modulation factored in)	Additional Floor Area Gained	Additional Units Possible
33'	50 x 120	2,970	8,643	0	0
45'	50 x 120	2,790	10,769	2,126	3 studios, or 2, 1-bdrms, or 1, 2-bdrm & 1 studio, or 1, 3-bdrm & 1 studio
55'	50 x 120	2,430	11,664	3,021	5 studios, or 3, 1-bdrms, or 2, 2-bdrms, or 1, 3-bdrm & 1, 2-bdrm

C. Allowing an additional floor within existing height limits

Allowing an additional floor within the existing height limit would require that the development standards for multi-family development be modified to allow for dwelling units to be constructed partly below ground. Partly below-ground residential units could be possible; however the City's multi-family development standards would need to be adjusted to allow the finish floor of residential units to be lower than one-foot below ground (Beverly Hills Municipal Code 10-3-2805). The possible floor area gained has been estimated based on the entire basement being used as living space. In reality, this would probably not be the case and residential units would only make up a section of the basement floor with other uses such as laundry and garage access also occupying the space.

Additional Story within Height Limits

	Floor Area Possible	Additional Units Possible
1 lot	2,970	5 studios, or 3, 1-bdrms
2 lots	7,290	12 studios, or 7, 1-bdrms
3 lots	11,430	19 studios, or 11, 1-bdrms

D. Counting required outdoor space toward floor area

Currently, development standards allow one half (1/2) of the required outdoor space to be counted toward a multi-family unit's floor area as long as the outdoor area is contiguous to the unit and is not more than 10-percent of the unit's required minimum floor area.

An incentive option could be to allow all required outdoor space (200 square feet) to count towards the unit size if located contiguous to the unit. The following chart provides the unit sizes that would result with this incentive based on current minimum unit requirements.

Including Outdoor Area in Unit Size

	Current BH Minimum Unit Size	Interior Floor Area with Incentive
Studio	600 sf	400 sf
1 bedroom	1,000 sf	800 sf
2 bedroom	1,300 sf	1,100 sf
3 bedroom	1,500 sf	1,300 sf

A building consisting of 10 one-bedroom units would require 1,000 square feet less interior space and a building with 5 one-bedroom units would require 500 square feet less interior space than current standards require.

E. Reduced Minimum Unit Size

Reducing minimum unit sizes for multi-family developments is identified in program 12.2 "Adjust Development Standards" in the Housing Element and has been identified by the State as one of the actions needed to maintain certification. The Planning Commission previously considered whether the reduced unit sizes should be included as an incentive on the density bonus list, or if reducing the City's unit size should be applied to all new multi-family development with affordable units. The minimum unit sizes for apartments and condominiums are provided below.

Required Minimum Floor Area for Multi-Family Housing

Number of Bedrooms	Market Rate Units (R-4)** BHMC 10-3-2802	Senior/Disabled Housing Incentive BHMC 10-3-12.5	Adaptive Reuse C-3 (AR) BHMC 10-3-19.6	Mixed Use M-PD-2 BHMC 10-3-19.3
0 (Studio)	600 sf	Maximum allowable floor area under Federal Section 202 Funding (Studio = 415, 1 Bedroom = 540)	600 sf	600 sf
1 Bedroom	1,000 sf		600 sf	800 sf
2 Bedrooms	1,300 sf		1,000 sf	1,300 sf
3+ Bedrooms	1,500 sf		1,400 sf	1,500 sf

** Currently, 100 square feet of required outdoor living space can be counted towards required floor area (not to exceed 10% of required floor area).

During the February 14, 2013 Study Session the following reduced sizes were proposed in order to stimulate discussion on what an appropriate reduction could be:

Reduced Unit Sizes Proposed for Affordable Units on February 14, 2013

Number of Bedrooms	Moderate Income Units	Very Low/ Low Income Units
0 (Studio)	600 sf	Maximum allowable floor area under Federal Section 202 Funding (Studio = 415, 1 Bedroom = 540)
1 Bedroom	600 sf	
2 Bedrooms	1,000 sf	
3+ Bedrooms	1,400 sf	

The reduced unit sizes presented above, and in the February 14, 2013 staff report, were drawn from existing reduced unit sizes available presently in the City of Beverly Hills in the Adaptive Reuse C-3 zone (see table above). Based on the Planning Commission’s direction, staff has collected information on minimum unit size requirements for neighboring cities, and proposes the following reduced sizes.

Minimum Unit Sizes

	Santa Monica (minimum Affordable Housing)	Culver City (minimum Multifamily Units)	Federal Section 202 Standards (Max) Senior Housing	Suggested Modified BH Unit Size
0 (Studio)	400 sf	500 sf	415 sf	600 sf
1 bedroom	600 sf	700 sf	540 sf	600 sf
2 bedroom	850 sf	900 sf		1,000 sf
3 bedroom	1080 sf	1,100 sf		1,200 sf

F. Offering a Reduced Side Yard Setback

Reducing side yard setbacks may reduce privacy and access to light and air for adjacent properties and at this time, inclusion of a reduced side yard setback in the list is not recommended. Nonetheless, to provide information for the Commission’s consideration, the potential floor area gained has been estimated for reducing side setbacks based on a 10%, 20%, and 33% reduction. As noted above, the building design would need to account for the adjacent properties’ privacy, and access to light and air.

Reduced Side Yard Setback

Number of Lots (Lot Area)	Allowable Stories	Lot Width (ft)	Lot Depth (ft)	Current Required Cumulative Setback	Additional square footage		
					10% SB Reduction	20% SB Reduction	33% SB Reduction
1 lot (6,000 sq. ft.)	3	50	120	17	460	920	1,500
2 lots (12,000 sq. ft.)	4	100	120	19	700	1,470	2,260
3 lots (18,000 sq. ft.)	4	150	120	23	830	1,660	2,730

G. Waiving the City’s Requirement for Shielded Parking (10-3-2818)

In addition to the development incentives analyzed based on direction from the Planning Commission on February 14, 2013, the Commission also may wish to consider including an incentive on the list regarding the requirement for shielded parking. On May 9, 2013, the developer for a density bonus project at 9265-9269 Burton Way requested a waiver from the City’s zoning standards requiring parking spaces to be shielded and fully enclosed when adjacent to residential property.

Fully enclosed parking garages generally require the installation of mechanical ventilation systems, which can add to the costs of development. The developer’s request was to allow a portion of the surrounding walls of a ground floor parking level to be partially open in order for natural ventilation, thus avoiding the costs of installing a mechanical ventilation system. The request provided for a 3.5’ tall opening at the base of a side wall of the parking level, which does not face the street and would not be visible from outside the property. With direction from the Planning Commission, this incentive can be included with the incentives being considered for inclusion on the list.

Summary of Potential Incentive List

The following potential list is based on the analysis presented in the discussion section of this report.

Incentive	Restrictions
Reduce Rear Setback by 50%	<i>For properties that abut an alley, commercial property, or multi-family property to the rear</i>
Allow single-lot projects in the four- and five-story height districts to build to the height district maximum	<i>For projects on lots less than 60 feet in width in height districts B and C</i>
Allow an additional floor within the height limits ²	
Count all outdoor space towards unit floor area	<i>Outdoor space must be contiguous to the unit</i>
Reduce minimum unit size for all units	
Waiving the City’s requirements for shielded parking	

Application Requirements and Review of On-list and Off-list Incentives

In order to further encourage the use of on-list incentives, the Planning Commission may wish to consider establishing different application requirements and review procedures for on-list and off-list incentives. For incentives on the list, the Planning Commission could consider not requiring detailed financial information, since these it would be understood that these incentives have been fully reviewed by the City and approved by the City Council when the list is adopted. Additionally, the Planning Commission’s consideration of projects using incentives on the list could be more focused on the findings of the development plan review, building modulation, and tentative tract map (for condominium projects) and less focused on use of an on-list incentive, given that the City would have already thoroughly vetted it. If a developer was to propose an off-list incentive, detailed financial

² The zoning code will need to be amended to allow habitable units to have a finish floor that is more than 1 foot below grade.

information could be required to substantiate use of that incentive, including a financial justification demonstrating that no on-list incentive could be used to build the affordable units at the rental or sales rates set by the State. The current code does not allow the City to do this. This approach could add certainty for developers and would not limit the City's review and regulation.

GENERAL PLAN CONSISTENCY

Adding a list of incentives in the Density Bonus Ordinance implements the objectives, principles, and standards of the General Plan. General Plan Policy H 2.1 "Affordable Housing Incentives" calls for the zoning ordinance to be amended to include a list of incentives for projects that are eligible for a density bonus due to the development of affordable units. General Plan Implementation Program 10.1 "Accessible Housing" requires revisions to the zoning ordinance to include a list of development incentives that will be made available to qualified developments. Implementation Program 12.2 "Adjust Development Standards" requires the City to reduce its minimum unit size requirements to incentivize the construction of smaller, more affordable units for the City's workforce. The General Plan also includes Implementation Program 2.1, "Update Zoning Code and Development Regulations," which requires that the City's Zoning Code be updated and amended to promote the development of affordable housing.

ENVIRONMENTAL REVIEW

The Code amendments contemplated are being assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the City. Zoning code changes contemplated in this report were included in the 2008 housing element update of the City's general plan and an environmental review was conducted at that time indicating that inclusion of a list of incentives in the Density Bonus Ordinance, and reduction in the minimum floor area requirement for affordable housing would not have a significant environmental impact on the environment and a negative declaration was issued at that time.

NEXT STEPS

With Planning Commission direction, staff will schedule a public hearing to consider a draft ordinance amending the City's Density Bonus Program guidelines (Attached) to include a list of incentives and to require detailed financial information to substantiate use of the incentive as part of the application requirements.

Report Reviewed By:



Jonathan Lait
City Planner

Attachment 1
February 14, 2013 Study
Session Report



Planning Commission Report

Meeting Date: February 14, 2013

Subject: Housing Element Implementation:
1.) State Density Bonus Program – Establish a List of Preferred Incentives
2.) Reduce Minimum Floor Area for Affordable Multi-Family Residential Units

Recommendation: Discuss possible changes to the City's Density Bonus Program to include a list of development incentives for affordable housing projects, and consider reducing the minimum floor area requirement for affordable housing units.

REPORT SUMMARY

The State requires all jurisdictions to develop programs in the Housing Element to address, to the extent feasible, the financial gap between construction costs and return on investment for affordable housing. Two programs from the City's Housing Element, Program 10.1 "Density Bonus" and 12.2 "Adjust Development Standards," address this issue. This report begins a discussion on implementing these two programs by 1.) Providing a list of incentives in the City's Density Bonus Ordinance (Beverly Hills Municipal Code Section 10-3-15.2); and by 2.) Reducing the City's minimum floor area requirement for affordable housing units.

BACKGROUND

Developing affordable housing is difficult due to the cost of land, permitting, and construction. When combined, these costs can be greater than the expected return on investment from affordable housing units. The State has recognized that affordable housing units can cost more than they can be rented or sold for, and so created the State Density Bonus Law in 1979. In 2004, the State revised the Law (SB1818) in an attempt to increase its use.

State Density Bonus Law

In summary, the State's Density Bonus Law is available to housing projects with five or more units. The Law allows up to a 35% dwelling unit density¹ bonus for housing projects that provide a percentage of units at affordable rates. The percentage of additional housing density granted is set by the State and based on the number of affordable units provided (Attachment 1 Provides a Summary of the Law). In addition to the housing density provided, a housing developer can request development incentives

¹ Density is the number of residential dwellings per acre of land.

Attachment(s):

1. Summary of the State Density Bonus
2. Beverly Hills Density Bonus Code (BHMC 10-3-15.2)
3. Density Bonus Incentive Lists in Other Cities
4. R-4 Height Districts Map

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intended to improve the feasibility of building the proposed affordable housing. The State defines the incentives that a developer may request, or the City may offer, to include:

- Reduced development standards (lot coverage, setbacks, parcel size)
- Approval of mixed use zoning
- Other regulatory incentives or concessions that would result in cost reductions

Granting Development Incentives / Incentive Lists

The State Density Bonus Law allows a developer to propose any incentive that they believe will help make the provision of affordable housing feasible. When an incentive, such as a reduced setback is requested and the request is coupled with the requisite number of affordable housing units, the city must grant the incentive unless a finding (based on substantial evidence) can be made that the incentive would:

Planning Commission Findings for Rejecting a Development Incentive

- Not be necessary to provide the affordable housing,
- Have a specific adverse effect on public health and safety, or
- Impact a historic structure with no feasible way of mitigating the impact

The City has the option of including a list of preferred incentives in its Density Bonus Program (BHMC 10-3-15.2, Attachment 2). Having a list would assist the Planning Commission in making, or not making, the first finding, that the incentive would, “not be necessary to provide that affordable housing.” Currently, without a list of incentives, the burden of providing “substantial evidence” is placed with the City and the City must conduct the background research and financial analysis necessary to substantiate whether a proposed incentive would be necessary to make up the costs of providing affordable housing.

Having a list does not prevent a developer from requesting any incentive they believed was necessary. What a list would do, however, is shift the burden of proof from the City to the developer when an incentive is proposed that is not on the list. In other words, a developer would need to prove that an incentive requested that is not on the list is needed to cover the costs of building the affordable units, that there is not incentive on the list that could also achieve this. The city may then deny the request if the applicant cannot prove that the off-list incentive is necessary.

Projects Using the City’s Density Bonus Program

Two projects have been entitled with a density bonus in the City of Beverly Hills (BHMC 10-3-15.2), and are summarized on the following page.

The Planning Commission reviewed and approved the following two projects with a Density Bonus, per City code. One project was entitled with three affordable units and a development incentive that was an additional story, allowing for a 45 foot tall project in an area with a 33 foot height limit. The other project was entitled with two affordable units and a development incentive that was a five foot decrease in the rear yard setback, which reduced the rear-yard setback from 15-feet to 10-feet.

Projects Using the City’s Density Bonus Program

Property	Density Bonus (Affordable Units)	Total units	Construction incentive granted
309-325 S. Elm Drive Condominiums	5 (3)	30	Additional story (setback from edge of 3 rd floor)
9936 Durant Drive Condominiums	2 (2)	14	Decreased rear-yard setback (Reduced from 15 to 10 feet)

DISCUSSION

Incorporating a list of incentives into the density bonus program would provide the following:

- **Benefits to the City:**
 - Encourages appropriate incentives,
 - Allows City to require an applicant to provide substantial evidence that an off-list incentive is necessary, and that no on-list incentive could be substituted
 - Helps fulfill the City’s housing element requirements.
- **Benefits to Applicants:**
 - Streamlines the process by allowing developers to choose incentives from the predetermined list, which can help with initial project planning and budgeting, and
 - Builds a sense of certainty and consistency in the development community by aligning our program with neighboring jurisdictions.

Offering a list of incentives could influence the incentives requested by applicants. Applicants could be inclined to make use of incentives on the list, knowing that substantial evidence would be required to use an off-list incentive. Offering a list ultimately expands the Planning Commission’s ability to evaluate development incentives. A list however does not preclude a developer from proposing an alternate incentive.

Incentives

Staff has reviewed the incentives used in the Cities of Los Angeles, Santa Monica, and West Hollywood (Attachment 3). The number of incentives offered by these cities varies from two (Santa Monica) to eight (Los Angeles). To facilitate a discussion, the City’s existing multiple-family residential project development standards are provided along with potential incentives the Planning Commission may wish to further explore. The potential incentives outlined on the following page are provided for discussion purposes only, and have not yet been studied in-depth. With direction from the Planning Commission, staff would analyze the benefits and feasibility of offering several of the proposed incentives.

Multiple-Family Residential Standards (BHMC 10-3-28)

Current Development Standards

Potential Incentives to
 Include on a List
**FOR DISCUSSION PURPOSES
 ONLY**

Front Setback*	15 ft. *Unless established otherwise	Streets 30-Feet Wide or Less 2-foot reduction for first floor for 50% of the building front Streets Wider than 30-Feet 5-foot reduction for first floor for 50% of building front
Modulation Requirement	Lots 50-feet wide or less 5-foot modulation from front setback line Lots wider than 50-feet 10 feet modulation from front setback line <u>Three stories or less:</u> 3% of aggregate principal building area or 1,500 sf (whichever is less) <u>Four Stories:</u> 3.5% of aggregate principal building area or 1,500 sf (whichever is less) <u>More than four stories</u> 4% of aggregate principal building area or 1,500 sf (whichever is less)	50% reduction
Side Setback	<u>Three stories or less:</u> 8-feet (each side) 17-feet (minimum total for both sides) <u>Four stories:</u> 8-feet (each side) 19-feet (minimum total for both sides) <u>More than four stories:</u> 9-feet (each side) 23-feet (minimum total for both sides)	20% reduction for first floor 10% reduction for additional floors Provided side yard does not abut single-family property
Rear Setback	15 feet (22.5 feet from the centerline of alley)	5-foot reduction for first floor 5-foot reduction for 50% of building rear for remaining floors Provided rear yard abuts an alley, or abuts commercial property

Multiple-Family Residential Standards (BHMC 10-3-28) - Continued

Height	Established by the Height district*: <u>Height District A</u> Three stories (33-feet) maximum <u>Height District B</u> Four stories (45-feet) maximum <u>Height District C</u> Five stories (55-feet) maximum *Lots less than or equal to sixty (60) feet are limited to 3-stories, or 33-feet	<u>District A</u> No incentive proposed <u>District B & C</u> 1. Waive 3-story limit for lots less than 60-feet in width 2. Additional Story with 10 foot setbacks on all sides Height still limited to heights in General Plan, which in “B” and “C” is 60-feet
Building Width	Maximum of 175 feet	No incentive proposed
Outdoor Area	200 sf /unit 100 square feet can be counted towards required floor area (not to exceed 10% of required floor area).	Option to count all (200) square feet towards required floor area (can be combined as shared outdoor space)
Minimum Unit Size	See discussion below	

For the discussion on height and number of stories, a map of the City’s R-4 Zone is provided as Attachment 4. The City’s R-4 Zone is divided into three height districts in the zoning code. The maximum height and number of stories for each of the zoning code height districts is provided in the chart above. The R-4 zone is also identified and is given a maximum height of 60-feet on the City’s General Plan map. Those R-4 Zone areas included in Height District “B” and “C” in the City’s Zoning Code allows a height of 45-feet, and 55-feet, respectively (plus a 42” parapet wall). Allowing an additional story in Height District B and C could allow for 5-story and 6-story buildings (where currently 4-story and 5-story buildings can be built). It would not alter the maximum allowable height, and so the General Plan maximum height of 60-feet would still apply. Additionally, limiting this incentive to Height Districts B and C would protect single-family neighborhoods (SFR) from additional building height since Height Districts B and C are separated from SFR districts by either Height District A, or by commercial uses.

REDUCING THE MINIMUM FLOOR AREA REQUIREMENT FOR AFFORDABLE HOUSING

One of the programs included in the Housing Element focuses on adjusting the development standards for multi-family housing projects. The City’s required minimum floor area for apartments and condominiums presents a challenge to building affordable housing, because it does not allow a developer to reduce costs by reducing residential unit size.

Reducing the minimum floor area requirement could be separate and apart from the incentives proposed for the Density Bonus Program. The reasoning behind this is to offer this incentive regardless of whether a project proposes a density bonus. Separating this incentive from the Density Bonus

Program could allow for affordable housing without the need to request added unit density or development incentives.

Another reason to explore reducing the minimum floor area requirement is that, Beverly Hills is unique in this requirement; most cities do not set minimums for residential unit size. Additionally, the City in the past has reduced unit sizes for housing for seniors or disabled persons, and for reuse of existing buildings. Presented on the following page are the City's current minimum unit size requirements.

Required Minimum Floor Area for Multi-Family Housing

Number of Bedrooms	Market Rate Units (R-4)** BHMC 10-3-2802	Senior/Disabled Housing Incentive BHMC 10-3-12.5	Adaptive Reuse C-3 (AR) BHMC 10-3-19.6	Mixed Use M-PD-2 BHMC 10-3-19.3
0 (Studio)	600 sf	Maximum allowable floor	600 sf	600 sf
1 Bedroom	1,000 sf	area under Federal	600 sf	800 sf
2 Bedrooms	1,300 sf	Section 202 Funding	1,000 sf	1,300 sf
3+ Bedrooms	1,500 sf		1,400 sf	1,500 sf

** 100 square feet of required outdoor living space can be counted towards required floor area (not to exceed 10% of required floor area).

For perspective and to further discussion, the City of West Hollywood's Maximum Floor Area Limits are provided below:

Maximum Floor Area of Multi-Family Units Allowed in the City of West Hollywood

Maximum average size of all dwelling units with a new residential project shall be no greater than 1,200 square feet in the R4 district.

The City of West Hollywood limits residential unit size in the R4 (Multi-family District allowing four or more units per lot). If most units in a project were 1-, or 2-bedroom units, using the Beverly Hills "Adaptive Reuse" minimum floor area would essentially result in an average unit size that would be similar to the West Hollywood maximum average unit size. West Hollywood has had some success in reducing constraints on the development of affordable housing. This indicates that establishing a minimum unit size for affordable units that are within the range of unit sizes previously allowed in the City of Beverly Hills (Adaptive Reuse C-3 and Senior/Disabled Housing) could reduce constraints to development of units, while also maintaining the City's character.

Based on the following, a reduction in the minimum floor area for affordable units is proposed as follows:

Proposed Reduction in Required Floor Area for Affordable Units

Number of Bedrooms	Moderate Income Units	Very Low/ Low Income Units
0 (Studio)	600 sf	Maximum allowable floor area under Federal Section 202 Funding
1 Bedroom	600 sf	
2 Bedrooms	1,000 sf	
3+ Bedrooms	1,400 sf	

GENERAL PLAN CONSISTENCY

Adding a list of incentives in the Density Bonus Ordinance is consistent with the objectives, principles, and standards of the General Plan. General Plan Policy H 2.1 “Affordable Housing Incentives” calls for the zoning ordinance to be amended to include a list of incentives for projects that are eligible for a density bonus due to the development of affordable units. General Plan Implementation Program 10.1 “Accessible Housing” requires revisions to the zoning ordinance to include a list of development incentives that will be made available to qualified developments. Implementation Program 12.2 “Adjust Development Standards” requires the City to reduce its minimum unit size requirements to incentivize the construction of smaller, more affordable units for the City’s workforce. The General Plan also includes Implementation Program 2.1, “Update Zoning Code and Development Regulations,” which requires that the City’s Zoning Code be updated and amended to promote the development of affordable housing.

ENVIRONMENTAL REVIEW

The Code amendments contemplated are being assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the City. It is anticipated that the inclusion of a list of incentives in the Density Bonus Ordinance, and reduction in the minimum floor area requirement for affordable housing would not have a significant environmental impact and are exempt from CEQA pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations.

NEXT STEPS

With Planning Commission direction, staff will evaluate the benefit and feasibility of providing a list of incentives in the City’s Density Bonus code language and an ordinance amending the City’s Density Bonus Program and floor area requirements for affordable housing will be brought to the Planning Commission for formal consideration.

Report Reviewed By:



Jonathan Lait
City Planner

STATE DENSITY BONUS ALLOWANCES

State Density Bonus Law/Senate Bill 1818 (SB 1818)

The density bonus granted to a project varies according to the amount by which the percentage of affordable housing exceeds the State’s established minimum percentage, but generally ranges from 20-35 percent above the specified General Plan density. The following table summarizes the Density bonus calculations outlined in the State Density Bonus Law (Government Code § 65915).

Affordability Category	% Affordable Units in Project	Eligible Density Bonus	Eligible Additional Development Incentives
Very Low Income¹	5%	20%	One
	6% and above	2.5% add'l bonus for each 1% increase in affordable units, up to 35% max	Two to Three
Lower Income²	10%	20%	One
	11% and above	1.5% add'l bonus for each 1% increase in affordable units, up to 35% max	Two to Three
Moderate Income³	10%	5%	One
	11% and above	1% add'l bonus for each 1% increase in affordable units, up to 35% max	Two to Three

SB1818 also provides a density bonus for setting aside land for child care facilities, donating land for affordable housing, and providing senior housing.

¹ Very Low Income – Not exceeding 50% of Area Median Income (AMI)

² Lower Income – Not exceeding 80% of AMI

³ Moderate Income - Not exceeding 120% of AMI. Maximum yearly expenditure on housing is 28-35% of 120% of AMI

BHMC 10-3-15.2

Article 15.2. Residential Density Bonus

- 10-3-1520: Purpose**
- 10-3-1521: Definitions**
- 10-3-1522: Density Bonus Permit Required**
- 10-3-1523: Applicability Of Other Regulations**
- 10-3-1524: Applications**
- 10-3-1525: Review Of Application**
- 10-3-1526: Grant Of Density Bonus**
- 10-3-1526.5: Grant Of Construction Incentives**
- 10-3-1527: Land Donations; Childcare Facilities**
- 10-3-1528: Occupancy Priority**
- 10-3-1529: Eligibility Guarantees**
- 10-3-1529.5: Waivers**
- 10-3-1530: Appeals**
- 10-3-1530.5: Guidelines**

10-3-1520: PURPOSE:

This article specifies the method of providing developer incentives pursuant to California Government Code sections 65915 and 65915.5, or any successor statutes thereto, and provides procedures for waiving or modifying development procedures which would otherwise inhibit the utilization of density bonus incentives on specific sites. (Ord. 05-O-2482, eff. 9-16-2005)

10-3-1521: DEFINITIONS:

Unless the context otherwise requires, the following definitions shall govern the construction of this article:

CHILDCARE FACILITY: Shall have the same meaning ascribed to that term by California Government Code section 65915, or its successor statute.

DENSITY BONUS: Shall have the same meaning ascribed to that term by California Government Code section 65915, or its successor statute.

ELIGIBLE HOUSEHOLDS: Includes lower income households, persons and families of low or moderate income, qualifying senior residents, and very low income households.

ELIGIBLE UNITS: Dwelling units that are restricted to occupancy by eligible households.

LOWER INCOME HOUSEHOLDS: Shall have the same meaning ascribed to that term by California Health and Safety Code section 50079.5, or its successor statute.

PERSONS AND FAMILIES OF LOW OR MODERATE INCOME: Shall have the same meaning ascribed to those terms by California Health and Safety Code section 50093, or its successor statute.

QUALIFYING SENIOR RESIDENT: Shall have the same meaning ascribed to the term "qualifying resident" by section 51.3 of the California Civil Code, or its successor statute.

SENIOR CITIZEN HOUSING DEVELOPMENT: Shall have the same meaning ascribed to that term by section 51.3 of the California Civil Code, or its successor statute.

VERY LOW INCOME HOUSEHOLDS: Shall have the same meaning ascribed to that term by California Health and Safety Code section 50105, or its successor. (Ord. 05-O-2482, eff. 9-16-2005)

10-3-1522: DENSITY BONUS PERMIT REQUIRED:

No developer shall be granted a density bonus or other incentive pursuant to this article unless that developer has been issued a density bonus permit pursuant to the procedures set forth in this article. (Ord. 05-O-2482, eff. 9-16-2005)

10-3-1523: APPLICABILITY OF OTHER REGULATIONS:

Except as otherwise specifically authorized by a density bonus permit, no development shall be constructed pursuant to this article except in compliance with each provision of this chapter that is applicable to the zone in which the development is located, including any requirement for discretionary review of a development project, such as development plan review. (Ord. 05-O-2482, eff. 9-16-2005)

10-3-1524: APPLICATIONS:

In addition to any other discretionary review required for a proposed housing project, applications for a density bonus permit shall be filed with the director of community development on a form approved by the director. The application shall be filed concurrently with an application for a development plan review. The fee for processing a density bonus permit application shall be one-half ($\frac{1}{2}$) the fee for processing a development plan review application. (Ord. 05-O-2482, eff. 9-16-2005)

10-3-1525: REVIEW OF APPLICATION:

The planning commission shall process the application for a density bonus permit in the same manner as, and concurrently with, the application for a development plan review that is required by article 31 of this chapter for development of a density bonus project. (Ord. 05-O-2482, eff. 9-16-2005)

10-3-1526: GRANT OF DENSITY BONUS:

A. Section 65915 Projects: Except as otherwise provided in this article, the planning commission shall grant a density bonus permit to any project for which a density bonus and incentives or concessions are required pursuant to California Government Code section 65915. The density bonus permit shall provide for a density bonus and at least one of the construction incentives described in section 10-3-1526.5 of this article in accordance with the following criteria:

1. Base Density Bonus:

a. The planning commission shall grant a density bonus permit that authorizes development of a project with a twenty percent (20%) density bonus and at least one of the construction incentives set forth in section 10-3-1526.5 of this article when the applicant for a housing development agrees to construct at least any one of the following:

(1) Five percent (5%) of the total units of a housing development for very low income households; or

(2) Ten percent (10%) of the total units of a housing development for lower income households; or

(3) A senior citizen housing development.

b. The planning commission shall grant a density bonus permit that authorizes development of a project with a five percent (5%) density bonus and at least one of the construction incentives set forth in section 10-3-1526.5 of this article when the applicant for the housing development agrees to construct ten percent (10%) of the total dwelling units in a condominium project, as defined in subdivision (f) of section 1351 of the California Civil Code or its successor statute, or in a planned development, as defined in subdivision (k) of section 1351 of the California Civil Code or its successor statute, for persons and families of moderate income.

2. Additional Density Bonus: In addition to the base density bonus granted by the planning commission pursuant to subsection A1 of this section, a density bonus permit issued pursuant to this article shall authorize an additional density bonus under the following circumstances:

a. For each one percent (1%) increase in the number of units above the initial five percent (5%) threshold of units affordable to 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%); or

b. For each one percent (1%) increase in the number of units above the initial ten percent (10%) threshold of units affordable to 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%); or

c. For each one percent (1%) increase in the number of units in a condominium development above the initial ten percent (10%) threshold of units affordable to moderate income households, the density bonus shall be increased by one percent (1%) up to a maximum of thirty five percent (35%).

B. Section 65915.5 Projects: If the city is required to issue a density bonus under California Government Code section 65915.5, the density bonus permit shall authorize development of a project with either a twenty five percent (25%) density bonus or with other incentives that are of equivalent financial value to the twenty five percent (25%) density bonus. Such other incentives shall be limited to financial incentives or any combination of density bonus, financial incentives, and construction incentives set forth in this section and section 10-3-1526.5 of this article.

With regard to construction incentives granted pursuant to this section, any requirement to designate units for lower income or very low income households may be satisfied by designating such units for persons and families of low and moderate income. Similarly, for the purpose of construction incentives granted pursuant to this section, any reference in section 10-3-1526.5 of this article to units designated for lower and very low income households shall include units designated for persons and families of low and moderate income.

C. Fractional Units: For the purposes of this section, all density calculations resulting in fractional units shall be rounded up to the next whole number. (Ord. 05-O-2482, eff. 9-16-2005)

10-3-1526.5: GRANT OF CONSTRUCTION INCENTIVES:

A. Number Of Incentives: In addition to the density bonus granted pursuant to section 10-3-1526 of this article, an applicant for any project for which a density bonus and incentives or concessions are required pursuant to California Government Code section 65915 shall be entitled to receive the following number of construction incentives:

1. One incentive for a project that includes at least ten percent (10%) of the total units for lower income households, at least five percent (5%) for very low income households, or at least ten percent (10%) for persons and families of moderate income in a condominium or planned development.
2. Two (2) incentives for a project that includes at least twenty percent (20%) of the total units for lower income households, at least ten percent (10%) for very low income households, or at least twenty percent (20%) for persons and families of moderate income in a condominium or planned development.
3. Three (3) incentives for a project that includes at least thirty percent (30%) of the total units for lower income households, at least fifteen percent (15%) for very low income households, or at least thirty percent (30%) for persons and families of moderate income in a condominium or planned development.

B. Qualifying Incentives: The exact construction incentive(s) to be offered to a project that qualifies for a density bonus pursuant to Government Code section 65915 and section 10-3-1526 of this article shall be determined by the planning commission as part of its review of each application:

C. Exceptions: Notwithstanding the requirements of this section, with regard to developments that qualify for a construction incentive pursuant to California Government Code section 65915, the planning commission need not provide a construction incentive in addition to the applicable density bonus if the commission makes a written finding, based upon substantial evidence, that either:

1. The requested incentive is not required to encourage the provision of housing at affordable housing costs as defined in California Health and Safety Code section 50052.5 nor is the incentive necessary to encourage the provision of housing at rents that are set as specified in California Government Code section 65915; or
2. The requested incentive would have a specific adverse impact, as defined in California Government Code section 65589.5 or its successor statute, 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. (Ord. 05-O-2482, eff. 9-16-2005)

10-3-1527: LAND DONATIONS; CHILDCARE FACILITIES:

A. Land Donations: If an applicant for a tentative subdivision map, parcel map, or other residential development approval donates land to the city as provided in California Government Code section 65915, or its successor statute, the planning commission shall grant a density bonus permit that authorizes a density bonus as required by section 65915, or its successor statute.

B. Childcare Facilities: If the applicant for a project that qualifies for a density bonus pursuant to section 10-3-1526 of this article proposed to include a childcare facility on the premises of, as part of, or adjacent to, the project, the planning commission shall grant the applicant one of the following:

1. An additional density bonus in an amount equal to or greater to the square footage in the childcare facility; or
2. An additional construction incentive set forth in section 10-3-1526.5 of this article that contributes significantly to the economic feasibility of the construction of the childcare facility.

Notwithstanding the foregoing, the planning commission shall not grant an additional density bonus or construction incentive for a childcare facility if, the commission finds, based on substantial evidence, that the community is already served by adequate childcare facilities. (Ord. 05-O-2482, eff. 9-16-2005)

10-3-1528: OCCUPANCY PRIORITY:

A. Displaced Tenants: If tenants are required to vacate existing dwelling units so that an owner or developer may perform any construction, renovation or addition pursuant to a density bonus permit, then each tenant shall be given a right of first refusal to occupy any unit for which the tenant qualifies in the newly constructed or renovated building. Tenants shall be offered the units in the following priority:

1. Households in which at least one member is sixty two (62) years of age or older;
2. Households with the lowest annual income.

B. Lower And Very Low Income Households: After accommodating displaced tenants as provided in subsection A of this section, during the affordability period described in section 10-3-1529 of this article for rental units designated for lower and very low income households, and subject to any limitations imposed by federal or state law, the owner or developer shall offer the designated affordable units in the following priority:

1. Qualified households in which at least one member is:
 - a. Employed by the Beverly Hills Unified School District as a state certified classroom teacher; or

- b. Employed by the Beverly Hills police department as a sworn law enforcement officer; or
 - c. Employed by the Beverly Hills fire department as a sworn firefighter;
- 2. Households with the lowest annual income;
 - 3. All other qualified households.

C. Moderate Income Households:

During the initial sale of units designated for sale to moderate income households, and subject to any limitations imposed by federal or state law, the owner or developer shall offer the designated units in the following priority:

- 1. Qualified households in which at least one member is:
 - a. Employed by the Beverly Hills Unified School District as a state certified classroom teacher; or
 - b. Employed by the Beverly Hills police department as a sworn law enforcement officer; or
 - c. Employed by the Beverly Hills fire department as a sworn firefighter;
- 2. Households with the lowest annual income;
- 3. All other qualified households. (Ord. 05-O-2482, eff. 9-16-2005)

10-3-1529: ELIGIBILITY GUARANTEES:

Prior to the construction of a development project pursuant to a density bonus permit, the developer shall ensure continued affordability of units designated for lower and very low income households to the satisfaction of the city attorney and as required by California Government Code section 65915 or its successor statute.

Also prior to the construction of a development project pursuant to a density bonus permit, with regard to dwelling units designated for qualifying senior residents, the developer shall ensure continued restriction of those units to qualifying senior residents and qualified permanent residents to the satisfaction of the city attorney and as provided in California Civil Code section 51.3 or its successor statute.

Additionally, prior to the issuance of a density bonus permit for a development in which the units will be sold to moderate income households, the developer shall ensure that the initial occupants of such units meet the applicable income limits to the satisfaction of the city attorney and as required by California Government Code section 65915 or its successor statute. In addition, the developer shall ensure that, upon resale, the city recaptures its proportionate share of the appreciation of such units to the satisfaction of the city attorney and as required by California Government Code section 65915 or its successor statute. (Ord. 05-O-2482, eff. 9-16-2005)

10-3-1529.5: WAIVERS:

In addition to any construction incentive requested by an applicant pursuant to section 10-3-1526.5 of this article, if an applicant for a density bonus permit demonstrates that certain zoning or development standards are the sole reason that eligible units cannot be developed in an economically feasible manner on a specific site, and the applicant demonstrates that no other incentive provided in this article will cause development of the eligible units to become economically feasible, then the planning commission may grant a waiver of the subject zoning or development standards as part of the density bonus permit. The applicant shall bear the burden of proving, through substantial evidence, that the waiver or modification is necessary to make the affordable housing units economically feasible. At a minimum, any request for a waiver of zoning or development standards pursuant to this section shall be accompanied by a pro forma or other financial analysis prepared by a qualified expert demonstrating that the proposed waiver or modification is necessary to make the affordable units economically feasible. (Ord. 05-O-2482, eff. 9-16-2005)

10-3-1530: APPEALS:

Any decision of the planning commission made pursuant to this article may be appealed by the applicant or any other interested party as provided in title 1, chapter 4, article 1 of this code. (Ord. 05-O-2482, eff. 9-16-2005)

10-3-1530.5: GUIDELINES:

All applications for a density bonus permit shall be processed pursuant to the guidelines for density bonus permit applications approved by the city council and on file in the department of community development. (Ord. 05-O-2482, eff. 9-16-2005)

Density Bonus Incentive Lists – Case Studies

Under the State Density Bonus Law, jurisdictions must provide incentives for the development of affordable housing. Incentives, in this case, are modifications from the development standards in the zoning code, which could make the development of affordable housing more economically feasible.

A jurisdiction may provide a list of incentives for density bonus-eligible housing projects. These lists include incentives that have been pre-selected by the City as appropriate incentives to encourage affordable housing. Having a list of incentives is beneficial to a City, as it provides more control over the types of incentives granted for Density Bonus projects. Having a list of incentives is also beneficial for developers because the list of incentives has been pre-selected by the City, and therefore, utilizing incentives from the list could reduce the City approval process and review timeline.

The municipal codes of Los Angeles, Santa Monica, and West Hollywood were reviewed and the density bonus incentives offered by each city are summarized below.

Listed Incentives for Development of Affordable Housing

Incentive	Los Angeles	Santa Monica	West Hollywood
Front/Back/Side Yard Setback	Up to 20% decrease*	Up to a 15% deviation from one side yard setback requirement or up to 15% deviation from rear yard setback requirements	10% reduction in the minimum rear, front, or side (1 side) yard setback
Lot Coverage	Up to 20% increase*	Up to a 10% increase in first floor parcel coverage	
Lot Width	Up to 20% decrease*		
Floor Area Ratio	Percentage increase in allowable Floor Area Ratio equal to the percentage of Density Bonus for which the housing project is eligible, not to exceed 35%		
Height	Percentage increase in feet equal to the percentage of Density Bonus for which the housing project is eligible; shall be applicable over the entire parcel regardless of the number of underlying height limits		An additional story, not to exceed 10 feet of total project height
Open Space	Up to 20% decrease*		10% reduction in common open space or 10% reduction in private open

Incentive	Los Angeles	Santa Monica	West Hollywood
			space for up to 50% of the units
Density Calculation	The area of any land required to be dedicated for street or alley purposes may be included as lot area for purposes of calculating the maximum density permitted by the underlying zone in which the project is located		
Other	Additional Density Bonus for senior housing with <u>low/very low income units</u> : 15% more than the 20% for regular senior housing, to a maximum of 35%		Result in identifiable, financially sufficient, and actual cost reductions

**provided that the landscaping for the project is sufficient to qualify for the number of landscape points equivalent to 10% more than otherwise required by Landscape Ordinance Guidelines*

Granting and Approval of Incentives

The granting and approval of incentives for eligible projects varies across jurisdictions. Some review incentives chosen off of a list differently than incentives proposed by a developer. Others have requirements that projects must meet in order to be eligible to utilize an incentive included on the predefined list. The municipal codes of Los Angeles, West Hollywood, and Santa Monica, all of which include a list of incentives, were examined and summarized below.

Los Angeles

Incentive included on the list: In order to be eligible to request an “on-menu” incentive, a project must meet certain requirements. These requirements address façade design, building orientation, and the building of projects in hillside areas or in very high fire hazard severity zones. When the developer of a project meets these requirements and requests an incentive included on the city list, the Director of the Department of City Planning has the decision-making authority to approve or deny the request.

Incentive not included on the list: When a developer requests an incentive not included on the list, the developer must submit a pro forma or other documentation that proves the incentive is needed to make the affordable housing units economically feasible. The request is then reviewed at a public hearing held by the Planning Commission.

Santa Monica

Incentive included on the list: If a developer requests an incentive that is included on the list, the City does not require the filing of an application for Variance, GPA, Zone Change or any other discretionary

approval. Requests for density bonuses with incentives are reviewed by the Director of Planning or designee.

Incentive not included on the list: For all incentives requested not on the list the applicant must demonstrate that the request will result actual cost reductions. The cost of reviewing financial data submitted during this process is borne by the developer. The incentive(s) requested are reviewed at a public hearing held by the Planning Commission.

West Hollywood

Incentive approval: Concessions that are requested by a developer are reviewed and approved by the review authority unless there is substantial evidence that the incentive is not required in order to provide for affordable housing, it would have an adverse impact on health, safety, the environment or a historic resource, or it is contrary to State or Federal law. The Director is the review authority for residential projects with 4 or fewer units in R1, R2, or R3 zones and 8 or fewer units in R4 zones. The Planning Commission is the review authority for residential projects with 5 or more units in R1, R2, or R3 zones or 9 or more units in R4 zones.

The Municipal Code of the City of West Hollywood does not indicate that the review process differs for concessions that are on or off the list of “available concessions” outlined in the code.

Attachment 2

Housing Element Programs

Program 10.1 Density Bonus

Beverly Hills updated its residential density bonus ordinance in 2005 consistent with current State requirements as specified under SB 1818. In summary, applicants of residential projects of five or more units may apply for a density bonus and additional incentive(s) if the project provides for one of the following, per State policy:

- *10% of the total units for lower income households; or*
- *5% of the total units for very low income households; or*
- *A senior citizen housing development that limits residency based on age requirements for housing for older persons; or*
- *10% of the total dwelling units in a condominium for moderate income households.*

The amount of density bonus varies according to the amount by which the percentage of affordable housing units exceeds the established minimum percentage, but generally ranges from 20-35% above the specified General Plan density. In addition to the density bonus, eligible projects may receive 1-3 additional development incentives, depending on the proportion of affordable units and level of income targeting.

The State requires the following incentives to be offered in conjunction with the density bonus:

- *A reduction in parcel development standards (coverage, setback, zero lot line and/or reduced parcel sizes)*
- *Approval of mixed use zoning in conjunction with the housing project*
- *Other regulatory incentives or concessions proposed by the applicant, or the City that would result in identifiable cost reductions*

By the City's ordinance, incentives offered are determined by the Planning Commission during the review process.

Pursuant to State requirements and at the request of the developer, the City will also permit a reduced parking ratio for density bonus projects. To the extent the density bonus cannot be accommodated due to the City's development standards, the City will waive or modify applicable standards to accommodate the bonus.

In order to provide greater certainty in the type of development incentives and concessions that could be requested, the City will modify the current ordinance to include specific lists of options.

Timeline: Modify the ordinance and promote the use of density bonus incentives through the City's Affordable Housing Brochure (Imp 10.5) by 2012.

Funding Sources: Department Budgets

Responsible City Section: City Manager's Office; Community Development Department

Program 12.2 Adjust Development Standards

While the City's development standards are aimed at ensuring the quality of development, certain standards may have the effect of constraining the provision of certain housing types. The Housing Element constraints analysis identifies the City's minimum unit size as a disincentive to the construction of smaller, more affordable units for the City's workforce. In addition, the Element identifies the City's height districts and parking location requirements as potential constraints to development. The City will commit to reducing its minimum unit size requirements, and will conduct an analysis of its multi-family development standards and establish measurable parameters to assess which other standards serve as an actual constraint to development of housing for a range of housing types. For those standards identified as a constraint, the City will implement revisions to mitigate, to include, but not limited to an evaluation of the following:

- Replacing the current density calculation for multi-family projects in the zoning code with a maximum floor area ratio
- Modifying development standards for single-lot projects
- Allowing greater flexibility in the type, and location of multi-family parking
- Allowing the same number of units to be rebuilt on properties which have more units than currently would be allowed
- Providing additional incentives for workforce housing over and above those contained in the provisions of the State Density Bonus.

Timeline: Conduct a comprehensive analysis of multi-family development standards in 2012. Amend the zoning code by 2013 to reduce minimum unit sizes and other development standards as supported by the analysis.

Funding Source: Departmental Budget

Responsible City Section: Community Development Department

Attachment 3
Government Code Section
65915-65918

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 with 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. Failure to adopt an ordinance shall not relieve a city, county, or city and county from complying with this section.

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

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

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

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

(D) Ten percent of the total dwelling units in a common interest development as defined in Section 1351 of the Civil Code for persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code, provided that all units in the development are offered to the public for purchase.

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

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

(c) (1) An applicant shall agree to, and the city, county, or city and county shall ensure, continued affordability of all low- and very low income units that qualified the applicant for the award of the density bonus 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. Rents for the

lower income density bonus units shall be set at an affordable rent as defined in Section 50053 of the Health and Safety Code. Owner-occupied units shall be available at an affordable housing cost as defined in Section 50052.5 of the Health and Safety Code.

(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 common interest development, as defined in Section 1351 of the Civil Code, are persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code, and that the units are offered at an affordable housing cost, as that cost is defined in Section 50052.5 of the Health and Safety Code. The local government shall enforce an equity sharing agreement, unless it is in conflict with the requirements of another public funding source or law. The following apply to the equity sharing agreement:

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

(B) For purposes of this subdivision, the local government's initial subsidy shall be equal to the fair market value of the home at the time of initial sale minus the initial sale price to the moderate-income household, plus the amount of any downpayment assistance or mortgage assistance. If upon resale the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value.

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

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

(A) The concession or incentive 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.

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

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

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

(B) Two incentives or concessions for projects that include at least 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 common interest 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 common interest 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.

(e) (1) In no case may a city, county, or city and county apply any development standard that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted by this section. An applicant may submit to a city, county, or city and county a proposal for the waiver or reduction of development standards that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted under this section, and may request a meeting with the city, county, or city and county. If a court finds that the refusal to grant a waiver or reduction of development standards is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit. Nothing in this subdivision shall be interpreted to require a local government to waive or reduce development standards if the waiver or reduction

would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Nothing in this subdivision shall be interpreted to require a local government to waive or reduce development standards that would have an adverse impact on any real property that is listed in the California Register of Historical Resources, or to grant any waiver or reduction that would be contrary to state or federal law.

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

(f) For the purposes of this chapter, "density bonus" means a density increase over the otherwise maximum allowable residential density as of the date of application by the applicant to the city, county, or city and county. The applicant may elect to accept a lesser percentage of density bonus. 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).

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

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

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

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

(3) For housing developments meeting the criteria of subparagraph (C) of paragraph (1) of subdivision (b), the density bonus shall be

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20 percent of the number of senior housing units.

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

Percentage Moderate- Income Units	Percentage Density Bonus
10	5
11	6
12	7
13	8
14	9
15	10
16	11
17	12
18	13
19	14
20	15
21	16
22	17
23	18
24	19
25	20
26	21
27	22
28	23
29	24
30	25
31	26
32	27
33	28
34	29
35	30
36	31
37	32
38	33
39	34
40	35

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

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

Percentage Very Low Income	Percentage Density Bonus
10	15

11	16
12	17
13	18
14	19
15	20
16	21
17	22
18	23
19	24
20	25
21	26
22	27
23	28
24	29
25	30
26	31
27	32
28	33
29	34
30	35

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

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

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

(C) The transferred land is at least one acre in size or of sufficient size to permit development of at least 40 units, has the appropriate general plan designation, is appropriately zoned with appropriate development standards for development at the density described in paragraph (3) of subdivision (c) of Section 65583.2, and is or will be served by adequate public facilities and infrastructure.

(D) The transferred land shall have all of the permits and approvals, other than building permits, necessary for the development of the very low income housing units on the transferred land, not later than the date of approval of the final subdivision map, parcel map, or residential development application, except that the local government may subject the proposed development to subsequent design review to the extent authorized by subdivision (i) of Section 65583.2

if the design is not reviewed by the local government prior to the time of transfer.

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

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

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

(H) A proposed source of funding for the very low income units shall be identified not later than the date of approval of the final subdivision map, parcel map, or residential development application.

(h) (1) When an applicant proposes to construct a housing development that conforms to the requirements of subdivision (b) and includes a 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.

(i) "Housing development," as used in this section, means a development project for five or more residential units. For the purposes of this section, "housing development" also includes a subdivision or common interest development, 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 shall be on contiguous sites that are the subject of one development application, but do not have to be based upon individual subdivision maps or parcels. The density bonus shall be permitted in geographic areas of the housing development other than the areas where the units for the lower income households are located.

(j) 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.

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

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

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

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

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

(1) "Development standard" includes a site or construction

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

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

(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 bedroom: 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 parking incentives or concessions beyond those provided in this subdivision pursuant 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 an 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 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. A 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 child care 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.

Attachment 4
Health and Safety Code Section
50052-50053

HEALTH AND SAFETY CODE

SECTION 50052-50053

50052. "Affirmative marketing program" means any program approved by the agency that is designed to achieve greater access to housing opportunities created by this division for members of disadvantaged racial, sexual, religious, ancestral, or national-origin groups. Such program shall include educational, promotional, and other appropriate activity designed to secure greater housing opportunities for the members of such groups. Where a significant number of persons in a community have limited fluency in the English language, publications implementing an affirmative marketing program in that community shall be provided in the native language of such persons.

50052.5. (a) For any owner-occupied housing that receives assistance prior to January 1, 1991, and a condition of that assistance is compliance with this section, "affordable housing cost" with respect to lower income households may not exceed 25 percent of gross income.

(b) For any owner-occupied housing that receives assistance on or after January 1, 1991, and a condition of that assistance is compliance with this section, "affordable housing cost" may not exceed the following:

(1) For extremely low households the product of 30 percent times 30 percent of the area median income adjusted for family size appropriate for the unit.

(2) For very low income households the product of 30 percent times 50 percent of the area median income adjusted for family size appropriate for the unit.

(3) For lower income households whose gross incomes exceed the maximum income for very low income households and do not exceed 70 percent of the area median income adjusted for family size, the product of 30 percent times 70 percent of the area median income adjusted for family size appropriate for the unit. In addition, for any lower income household that has a gross income that equals or exceeds 70 percent of the area median income adjusted for family size, it shall be optional for any state or local funding agency to require that affordable housing cost not exceed 30 percent of the gross income of the household.

(4) For moderate-income households, affordable housing cost shall not be less than 28 percent of the gross income of the household, nor exceed the product of 35 percent times 110 percent of area median income adjusted for family size appropriate for the unit. In addition, for any moderate-income household that has a gross income that exceeds 110 percent of the area median income adjusted for family size, it shall be optional for any state or local funding agency to require that affordable housing cost not exceed 35 percent of the gross income of the household.

(c) The department shall, by regulation, adopt criteria defining, and providing for determination of, gross income, adjustments for family size appropriate to the unit, and housing cost for purposes of

determining affordable housing cost under this section. These regulations may provide alternative criteria, where necessary to be consistent with pertinent federal statutes and regulations governing federally assisted housing. The agency may, by regulation, adopt alternative criteria, and pursuant to subdivision (f) of Section 50462, alternative percentages of income may be adopted for agency-assisted housing development.

(d) With respect to moderate- and lower income households who are tenants of rental housing developments and members or shareholders of cooperative housing developments, or limited equity cooperatives "affordable housing cost" has the same meaning as affordable rent, as defined in Section 50053.

(e) Regulations of the department shall also include a method for determining the maximum construction cost, mortgage loan, or sales price that will make housing available to an income group at affordable housing cost.

(f) For purposes of this section, "area median income" shall mean area median income as published by the department pursuant to Section 50093.

(g) For purposes of this section, "moderate income household" shall have the same meaning as "persons and families of moderate income" as defined in Section 50093.

(h) For purposes of this section, and provided there are no pertinent federal statutes applicable to a project or program, "adjusted for family size appropriate to the unit" shall mean for a household of one person in the case of a studio unit, two persons in the case of a one-bedroom unit, three persons in the case of a two-bedroom unit, four persons in the case of a three-bedroom unit, and five persons in the case of a four-bedroom unit.

50053. (a) For any rental housing development that receives assistance prior to January 1, 1991, and a condition of that assistance is compliance with this section, "affordable rent" with respect to lower income households shall not exceed the percentage of the gross income of the occupant person or household established by regulation of the department that shall not be less than 15 percent of gross income nor exceed 25 percent of gross income.

(b) For any rental housing development that receives assistance on or after January 1, 1991, and a condition of that assistance is compliance with this section, "affordable rent," including a reasonable utility allowance, shall not exceed:

(1) For extremely low income households the product of 30 percent times 30 percent of the area median income adjusted for family size appropriate for the unit.

(2) For very low income households, the product of 30 percent times 50 percent of the area median income adjusted for family size appropriate for the unit.

(3) For lower income households whose gross incomes exceed the maximum income for very low income households, the product of 30 percent times 60 percent of the area median income adjusted for family size appropriate for the unit. In addition, for those lower income households with gross incomes that exceed 60 percent of the

area median income adjusted for family size, it shall be optional for any state or local funding agency to require that affordable rent be established at a level not to exceed 30 percent of gross income of the household.

(4) For moderate-income households, the product of 30 percent times 110 percent of the area median income adjusted for family size appropriate for the unit. In addition, for those moderate-income households whose gross incomes exceed 110 percent of the area median income adjusted for family size, it shall be optional for any state or local funding agency to require that affordable rent be established at a level not to exceed 30 percent of gross income of the household.

(c) The department's regulation shall permit alternative percentages of income for agency-assisted rental and cooperative housing developments pursuant to regulations adopted under subdivision (f) of Section 50462. The department shall, by regulation, adopt criteria defining and providing for determination of gross income, adjustments for family size appropriate to the unit, and rent for purposes of this section. These regulations may provide alternative criteria, where necessary, to be consistent with pertinent federal statutes and regulations governing federally assisted rental and cooperative housing. The agency may, by regulation, adopt alternative criteria, and pursuant to subdivision (f) of Section 50462, alternative percentages of income may be adopted for agency-assisted housing developments.

For purposes of this section, "area median income," "adjustments for family size appropriate to the unit," and "moderate-income household" shall have the same meaning as provided in Section 50052.5.

Attachment 5

Affordable Housing Rates and
Income

For affordable housing developed through the density bonus program, the state requires the City to ensure continued affordability of the units for at least 30-years at the affordable income category that qualified the applicant for use of the specified density bonus. Income categories are set by the State and are based on the Area Median Income (AMI). In the chart below, 2013 income thresholds for various income categories are presented for Los Angeles County.

Income Categories, 2013, Los Angeles County

Income Category	% County Area Median Income (AMI)	Income Limit		
		1 person household	2 person household	3 person household
Extremely Low	0-30% AMI	\$17,950	\$20,050	\$23,050
Very Low	0-50% AMI	\$29,900	\$34,200	\$38,450
Low *	51-80% AMI	\$47,850	\$54,650	\$61,500
Moderate	81-120% AMI	\$54,450	\$62,200	\$70,000

SOURCE: California Dept. of Housing and Community Development, 2013 Income Limits

For perspective, the 2012 Occupational Employment Statistics for Los Angeles County indicates which professions would qualify for low and moderate rate housing.

Professions Earning Moderate Income on Average¹

Teacher Assistants	Licensed Practical and Vocational Nurses
Emergency Medical Technicians and Paramedics	Executive Secretaries and Administrative Assistants
Preschool Teachers	Child, Family, and School Social Workers
Transit Bus Drivers	Carpenters
Bookkeeping, Accounting, and Auditing Clerks	Food Service Managers
Tax Preparers	Architectural and Civil Drafters
Retail Sales Manager	Computer Support Specialists

The maximum affordable rental Rates for the four income categories are estimated in the chart below.

Estimated Maximum Rent for Affordable Housing²

Income Category	Maximum Monthly Rent		
	1 person household	2 person household	3 person household
Extremely Low	\$448.75	\$501.25	\$576.25
Very Low	\$747.50	\$855.00	\$961.25
Low *	\$1,196.25	\$1,366.25	\$1,537.50
Moderate	\$1,361.25	\$1,555.00	\$1,750.00

¹ 2012 California Occupational Employment Statistics –Los Angeles County

² Does not include an allowance for utilities

Rental rates for Beverly Hills were surveyed in April of this year.

**Survey of Vacant Studio, One Bedroom, and
 Backyard Cottage Rental Listings (April 13, Beverly Hills)**

Unit Type and Bedrooms	# Units Advertised	Rental Range	Median Rent
Studio	9	\$995 - \$1,750	\$1,495
1	45	\$1,395 - \$4,300	\$1,650
Guest Houses/Second Units	5	\$995 - \$2,500	\$1,195

SOURCE: www.craigslist.org; www.westsiderentals.com.

The median rate currently for a one-bedroom apartment in the City is \$1,650; which is about \$300 more than the allowable maximum rental rate for a person earning a moderate income (annual salary of \$54,450, or approximately \$26 hourly).

In the chart below, the maximum sales price for moderate-rate housing is estimated and compared to current sales averages in Beverly Hills. The sales price for a two-bedroom condominium in Beverly Hills was estimated to be approximately \$400,000 more than what a moderate rate income earner could afford in 2012.

2012 Los Angeles County Maximum Affordable Housing Cost

Moderate Income Affordable Housing Cost	2 Bedroom (3 persons)	3 Bedroom (4 persons)	4 Bedroom (5 persons)
Household Income @ 120% Median	\$70,000	\$77,750	\$83,950
Income Towards Housing @ 35% Income	\$24,500	\$27,213	\$29,383
Maximum Monthly Housing Cost	\$2,041	\$2,267	\$2,448
<i>Less Ongoing Monthly Expenses:</i>			
Utilities	\$91	\$112	\$138
Taxes (1.1% affordable hsg price)	\$290	\$320	\$350
Insurance	\$100	\$115	\$130
HOA Fees & Other	\$180	\$180	\$180
Monthly Income Available for Mortgage	\$1,380	\$1,540	\$1,650
Supportable Mortgage @ 4.0% interest	\$289,000	\$322,500	\$345,500
Homebuyer Down payment (10%)	\$31,000	\$35,000	\$38,000
Maximum Purchase Price for Moderate Income Households:	\$320,000	\$357,500	\$383,500
Beverly Hills Median Single-Family Sales Price	\$2,725,000	\$1,837,500	\$3,675,000
Beverly Hills Median Condo Sales Price	\$710,000	\$1,040,000	\$1,390,000

SOURCE: Karen Warner Associates.
 Utility costs based on LACDC single-family utility allowance schedule for gas appliances.

Attachment 6

Height District Map

Attachment 7
City's Density Bonus Program
Guidelines

ORDINANCE NO. 05-0-2482

AN ORDINANCE OF THE CITY OF BEVERLY HILLS
AMENDING REGULATIONS GOVERNING RESIDENTIAL
DENSITY BONUSES AND AMENDING THE BEVERLY
HILLS MUNICIPAL CODE.

THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS HEREBY

ORDAINS AS FOLLOWS:

Section 1. Article 15.2 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code is hereby repealed in its entirety.

Section 2. New Article 15.2 is hereby added to Chapter 3 of Title 10 of the Beverly Hills Municipal Code to read as follows:

“Article 15.2 Residential Density Bonus

- Section 10-3-1520. Purpose.**
- Section 10-3-1521. Definitions.**
- Section 10-3-1522. Density bonus permit required.**
- Section 10-3-1523. Applicability of other regulations.**
- Section 10-3-1524. Applications.**
- Section 10-3-1525. Review of application.**
- Section 10-3-1526. Grant of density bonus.**
- Section 10-3-1526.5. Grant of construction or other incentives.**
- Section 10-3-1527. Land donations; child care facilities.**
- Section 10-3-1528. Occupancy priority.**
- Section 10-3-1529. Eligibility guarantees.**
- Section 10-3-1529.5. Waivers.**
- Section 10-3-1530. Appeals.**
- Section 10-3-1530.5. Guidelines.**

Section 10-3-1520. Purpose.

This article specifies the method of providing developer incentives pursuant to California Government Code Sections 65915 and 65915.5, or any successor statutes thereto, and provides procedures for waiving or modifying development procedures which would otherwise inhibit the utilization of density bonus incentives on specific sites.

Section 10-3-1521. Definitions.

Unless the context otherwise requires, the following definitions shall govern the construction of this article:

(a) 'Child care facility' shall have the same meaning ascribed to that term by California Government Code Section 65915, or its successor statute.

(b) 'Density bonus' shall have the same meaning ascribed to that term by California Government Code Section 65915, or its successor statute.

(c) 'Eligible households' shall include lower income households, persons and families of low or moderate income, qualifying senior residents, and very low income households.

(d) 'Eligible units' shall mean dwelling units that are restricted to occupancy by eligible households.

(e) 'Lower income households' shall have the same meaning ascribed to that term by California Health and Safety Code Section 50079.5, or its successor statute.

(f) 'Persons and families of low or moderate income' shall have the same meaning ascribed to those terms by California Health and Safety Code Section 50093, or its successor statute.

(g) 'Qualifying senior resident' shall have the same meaning ascribed to the term 'qualifying resident' by Section 51.3 of the California Civil Code, or its successor statute.

(h) 'Senior citizen housing development' shall have the same meaning ascribed to that term by Section 51.3 of the California Civil Code, or its successor statute.

(i) 'Very low income households' shall have the same meaning ascribed to that term by California Health and Safety Code Section 50105, or its successor.

Section 10-3-1522. Density bonus permit required.

No developer shall be granted a density bonus or other incentive pursuant to this article unless that developer has been issued a density bonus permit pursuant to the procedures set forth in this article.

Section 10-3-1523. Applicability of other regulations.

Except as otherwise specifically authorized by a density bonus permit, no development shall be constructed pursuant to this article except in compliance with each provision of this chapter that is applicable to the zone in which the development is located, including any requirement for discretionary review of a development project, such as development plan review.

Section 10-3-1524. Applications.

In addition to any other discretionary review required for a proposed housing project, applications for a density bonus permit shall be filed with the director of community development on a form approved by the director. The application shall be filed concurrently with an application for a development plan review. The fee for processing a density bonus permit application shall be one-half (½) the fee for processing a development plan review application.

Section 10-3-1525. Review of application.

The planning commission shall process the application for a density bonus permit in the same manner as, and concurrently with, the application for a development plan review that is required by Article 31 of this chapter for development of a density bonus project.

Section 10-3-1526. Grant of density bonus.

A. Section 65915 projects. Except as otherwise provided in this article, the planning commission shall grant a density bonus permit to any project for which a density bonus and incentives or concessions are required pursuant to California Government Code Section 65915. The density bonus permit shall provide for a density bonus and at least one of the construction incentives described in Section 10-3.1526.5 in accordance with the following criteria:

1. Base density bonus.

(a) The planning commission shall grant a density bonus permit that authorizes development of a project with a twenty percent (20%) density bonus and at least one of the construction incentives set forth in Section 10-3-1526.5 of this article when the applicant for a housing development agrees to construct at least any one of the following:

- (i) Five percent (5%) of the total units of a housing development for very low income households; or
 - (ii) Ten percent (10%) of the total units of a housing development for lower income households; or
 - (iii) A senior citizen housing development.
- (b) The planning commission shall grant a density bonus permit that authorizes development of a project with a five percent (5%) density bonus and at least one of the construction incentives set forth in Section 10-3-1526.5 when the applicant for the housing development agrees to construct ten percent (10%) of the total dwelling units in a condominium project, as defined in subdivision (f) of Section 1351 of the California Civil Code or its successor statute, or in a planned development, as defined in subdivision (k) of Section 1351 of the California Civil Code or its successor statute, for persons and families of moderate income.

2. Additional density bonus. In addition to the base density bonus granted by the planning commission pursuant to paragraph 1 of this subsection, a density bonus permit issued pursuant to this article shall authorize an additional density bonus under the following circumstances:

- (i) For each one percent (1%) increase in the number of units above the initial five percent (5%) threshold of units affordable to 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%); or
- (ii) For each one percent (1%) increase in the number of units above the initial ten percent (10%) threshold of units affordable to 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%); or
- (iii) For each one percent (1%) increase in the number of units in a condominium development above the initial ten percent (10%) threshold of units affordable to moderate income households, the density bonus shall be increased by one percent (1%) up to a maximum of thirty-five percent (35%)

B. Section 65915.5 projects. If the city is required to issue a density bonus under California Government Code Section 65915.5, the density bonus permit shall authorize development of a project with either a twenty five percent (25%) density bonus or with other incentives that are of equivalent financial value to the twenty five percent (25%) density bonus. Such other incentives shall be limited to financial incentives or any combination of

density bonus, financial incentives, and construction incentives set forth in Sections 10-3-1526 and 10-3-1526.5 of this article.

With regard to construction incentives granted pursuant to this section, any requirement to designate units for lower income or very low income households may be satisfied by designating such units for persons and families of low and moderate income. Similarly, for the purpose of construction incentives granted pursuant to this section, any reference in Section 10-3-1526.5 of this article to units designated for lower and very low income households shall include units designated for persons and families of low and moderate income.

- C. For the purposes of this section, all density calculations resulting in fractional units shall be rounded up to the next whole number.

Section 10-3-1526.5. Grant of construction incentives.

- A. Number of incentives. In addition to the bonus density granted pursuant to Section 10-3-1526, an applicant for any project for which a density bonus and incentives or concessions are required pursuant to California Government Code section 65915 shall be entitled to receive the following number of construction incentives:

- (i) One incentive for a project that includes at least ten percent (10%) of the total units for lower income households, at least five percent (5%) for very low income households, or at least ten percent (10%) for persons and families of moderate income in a condominium or planned development.
- (ii) Two incentives for a project that includes at least twenty percent (20%) of the total units for lower income households, at least ten percent (10%) for very low income households, or at least twenty percent (20%) for persons and families of moderate income in a condominium or planned development.
- (iii) Three incentives for a project that includes at least thirty percent (30%) of the total units for lower income households, at least fifteen percent (15%) for very low income households, or at least thirty percent (30%) for persons and families of moderate income in a condominium or planned development.

- B. Qualifying incentives. The exact construction incentive(s) to be offered to a project that qualifies for a bonus density pursuant to Government Code Section 65915 and Section 10-3-1526 of this Article shall be determined by the planning commission as part of its review of each application.

C. Exceptions. Notwithstanding the requirements of section 10-3-1526.5 of this article, with regard to developments that qualify for a construction incentive pursuant to California Government Code section 65915, the planning commission need not provide a construction incentive in addition to the applicable density bonus if the commission makes a written finding, based upon substantial evidence, that either:

- (1) The requested incentive is not required to encourage the provision of housing at affordable housing costs as defined in California Health and Safety Code Section 50052.5 nor is the incentive necessary to encourage the provision of housing at rents that are set as specified in California Government Code section 65915; or
- (2) The requested incentive would have a specific adverse impact, as defined in California Government Code Section 65589.5 or its successor statute, 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.

Section 10-3-1527. Land donations; child care facilities.

A. Land donations. If an applicant for a tentative subdivision map, parcel map, or other residential development approval donates land to the City as provided in California Government Code Section 65915, or its successor statute, the planning commission shall grant a density bonus permit that authorizes a density bonus as required by Section 65915, or its successor statute.

B. Child care facilities. If the applicant for a project that qualifies for a density bonus pursuant to Section 10-3-1526 of this article proposed to include a child care facility on the premises of, as part of, or adjacent to, the project, the planning commission shall grant the applicant one of the following:

- (1) An additional density bonus in an amount equal to or greater to the square footage in the child care facility; or
- (2) An additional construction incentive set forth in Section 10-3-1526.5 that contributes significantly to the economic feasibility of the construction of the child care facility.

Notwithstanding the foregoing, the planning commission shall not grant an additional density bonus or construction incentive for a child care facility if, the commission finds, based on substantial evidence, that the community is already served by adequate child care facilities.

Section 10-3-1528. Occupancy priority.

A. Displaced Tenants. If tenants are required to vacate existing dwelling units so that an owner or developer may perform any construction, renovation or addition pursuant to a density bonus permit, then each tenant shall be given a right of first refusal to occupy any unit for which the tenant qualifies in the newly constructed or renovated building. Tenants shall be offered the units in the following priority:

1. Households in which at least one member is sixty two (62) years of age or older;
2. Households with the lowest annual income.

B. Affordable Units. After accommodating displaced tenants as provided in subsection A of this Section, during the affordability period described in Section 10-3-1529 of this Article for rental units designated for lower and very low income households, and subject to any limitations imposed by federal or state law, the owner or developer shall offer the designated affordable units in the following priority:

1. Qualified households in which at least one member is:
 - (a) employed by the Beverly Hills Unified School District as a state-certified classroom teacher; or
 - (b) employed by the Beverly Hills Police Department as a sworn law enforcement officer; or
 - (c) employed by the Beverly Hills Fire Department as a sworn firefighter;
2. Households with the lowest annual income;
3. All other qualified households.

During the initial sale of units designated for sale to moderate income households, and subject to any limitations imposed by federal or state law, the owner or developer shall offer the designated units in the following priority:

1. Qualified households in which at least one member is:
 - (a) employed by the Beverly Hills Unified School District as a state-certified classroom teacher; or
 - (b) employed by the Beverly Hills Police Department as a sworn law enforcement officer; or
 - (c) employed by the Beverly Hills Fire Department as a sworn firefighter;
2. Households with the lowest annual income;

3. All other qualified households.

Section 10-3-1529. Eligibility guarantees.

Prior to the construction of a development project pursuant to a density bonus permit, the developer shall ensure continued affordability of units designated for lower and very low income households to the satisfaction of the city attorney and as required by California Government Code Section 65915 or its successor statute.

Also prior to the construction of a development project pursuant to a density bonus permit, with regard to dwelling units designated for qualifying senior residents, the developer shall ensure continued restriction of those units to qualifying senior residents and qualified permanent residents to the satisfaction of the city attorney and as provided in California Civil Code Section 51.3 or its successor statute.

Additionally, prior to the issuance of a density bonus permit for a development in which the units will be sold to moderate income households, the developer shall ensure that the initial occupants of such units meet the applicable income limits to the satisfaction of the city attorney and as required by California Government Code Section 65915 or its successor statute. In addition, the developer shall ensure that, upon resale, the City recaptures its proportionate share of the appreciation of such units to the satisfaction of the city attorney and as required by California Government Code Section 65915 or its successor statute.

Section 10-3-1529.5. Waivers.

In addition to any construction incentive requested by an applicant pursuant to Section 10-3-1526.5, if an applicant for a density bonus permit demonstrates that certain zoning or development standards are the sole reason that eligible units cannot be developed in an economically feasible manner on a specific site, and the applicant demonstrates that no other incentive provided in this article will cause development of the eligible units to become economically feasible, then the planning commission may grant a waiver of the subject zoning or development standards as part of the density bonus permit. The applicant shall bear the burden of proving, through substantial evidence, that the waiver or modification is necessary to make the affordable housing units economically feasible. At a minimum, any request for a waiver of zoning or development standards pursuant to this section shall be accompanied by a pro forma or other financial analysis prepared by a qualified expert demonstrating that the proposed waiver or modification is necessary to make the affordable units economically feasible.

Section 10-3-1530. Appeals.

Any decision of the planning commission made pursuant to this article may be appealed by the applicant or any other interested party as provided in Title 1, Chapter 4, Article 1 of this code.

Section 10-3-1530.5. Guidelines.

All applications for a density bonus permit shall be processed pursuant to the guidelines for density bonus permit applications approved by the city council and on file in the Department of Community Development.”

Section 3. The proposed Ordinance revises the requirements for granting a residential density bonus to comply with revisions to State law enacted by the Legislature through the adoption of Senate Bill 1818. The revisions modify the criteria and incentives offered to qualifying developments but do not authorize construction not already permitted under the City’s existing codes. Accordingly, the City Council hereby finds that it can be seen with certainty that there is no possibility the adoption and implementation of this Ordinance may have a significant effect on the environment. The Ordinance is therefore exempt from the environmental review requirements of the California Environmental Quality Act pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations.

Section 4. The City Clerk shall cause this Ordinance to be published at least once in a newspaper of general circulation published and circulated in the City within fifteen (15) days after its passage, in accordance with Section 36933 of the Government Code; shall certify to the adoption of this Ordinance and shall cause this ordinance and her certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this City.

Section 5. This Ordinance shall go into effect and be in full force and effect at

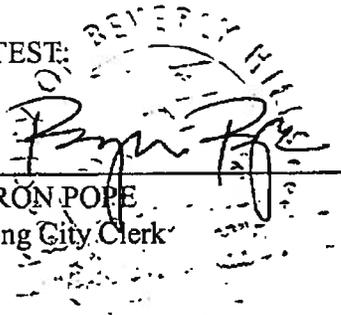
12:01 a.m. on the thirty-first (31st) day after its passage.

Adopted: August 16, 2005
Effective: September 16, 2005



LINDA J. BRISKMAN
Mayor of the City of
Beverly Hills, California

ATTEST:



BYRON POPE
Acting City Clerk

(SEAL)

APPROVED AS TO FORM:



LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:



RODERICK J. WOOD
City Manager



MAHDI ALUZRI
Director of Community Development

**CITY OF BEVERLY HILLS GUIDELINES
FOR STATE MANDATED RESIDENTIAL DENSITY BONUS DEVELOPMENTS**

These guidelines shall apply to the review of proposals for the development of residential projects submitted pursuant to California Government Code Sections 65915 and 65915.5, or the successor statutes thereto. Applicants are referred to Article 15.2 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code.

Provision of these guidelines to applicants shall satisfy the requirement that within 90 days of receipt of a written proposal for a density bonus project, the City shall notify the applicant in writing of the procedures under which the City will comply with Govt. Code 65915.5

A. Application Density bonus project proposals shall be made on an application form for a density bonus permit as approved by the Director of Community Development. An application for a density bonus permit shall be filed concurrently with an application for a development plan review permit. The project proposal may require filing of additional applications such as an application for a tentative tract map, architectural review, etc., depending on the nature of the proposal. Applicants are referred to Community Development Dept. staff to determine whether additional applications for review are necessary. These materials shall consist of items required for a complete development plan review application, including the request for a density bonus and incentive(s), with the following additions or clarifications.

1. Dimensioned schematic site and floor plans drawn to scale that show the area of dwelling units.
2. Information regarding the units to be reserved for eligible households (lower or very low income households or persons and families of low or moderate income as defined in the Health and Safety Code, or senior residents as defined in the Civil Code), including number and location of the units as shown on the schematic floor plans.
3. Pro forma calculations on the project and other financial information necessary for a determination of alternative incentives of equivalent financial value to the density bonus and to determine the financial value to the project of the proposed incentive(s), if any incentive(s) is proposed.
4. A statement acknowledging the requirement to provide written notice of tenancy termination to tenants and to furnish relocation benefits to tenants to be displaced by the project in conformance with Article 6 of Chapter 5 of Title 4 of the Beverly Hills Municipal Code (B.H.M.C.). The statement should also acknowledge the requirement that each displaced tenant shall be given a right of first refusal to occupy any unit for which the tenant

qualifies in the newly constructed or renovated building, in accordance with Section 10-3.1528 of Article 15.2 of Chapter 3 of Title 10 of the B.H.M.C.

- B. Application Review** The project, consisting of both the density bonus permit application and the development plan review permit application, will be reviewed by the Planning Commission at a noticed public hearing. The Planning Commission will first determine whether the project qualifies for a density bonus and/or incentive(s) under Article 15.2 of Chapter 3 of Title 10 of the B.H.M.C.

Based on its review, including an evaluation of the financial information indicating the equivalent financial value of the bonus units and/or incentive(s), the Planning Commission may grant a density bonus and/or incentive(s), including modifications of development standards as provided in Article 15.2 of Chapter 3 of Title 10 of the B.H.M.C.

Approval of any financial incentive or waiver of fees shall require the approval of the City Council.

Approval of the density bonus permit shall be contingent upon reserving the eligible units for eligible households for the period of time required by State law.

The ability to develop a density bonus project is further contingent upon the submission, review and approval of an application for development plan review that specifically includes any density bonus and/or incentive(s) approved in the density bonus permit.