

Santa Rosa City Code

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Chapter 20-31 DENSITY BONUS AND OTHER DEVELOPER INCENTIVES

20-31.010 Purpose.

This Density Bonus Ordinance is intended to provide incentives for the production of affordable housing, senior housing and the development of child care facilities. In enacting this Chapter, it is the intent of the City of Santa Rosa to implement the goals, objectives, and policies of Santa Rosa General Plan 2035 and further to implement and be subject to California [Government Code](#) Section 65915. In the event that any provision in this Chapter conflicts with State law, State law shall control.

(Ord. 3960 § 1, 2010)

20-31.020 Definitions.

The following terms used in the section shall be defined as follows:

Affordable Housing/Affordable Housing Unit. A housing unit which is available for sale to moderate income households or for rent to low and/or very low income households, as those terms are defined in this Section.

Affordable Rent. Monthly rent charged to low and very low income households for housing units as calculated in accordance with Section 50053 of the [Health and Safety Code](#).

Child Care Facility. A facility that provides non-medical care and supervision of minor children for periods of less than 24 hours and is licensed by the California State Department of Social Services, further subject to the definition in California [Government Code](#) Section 65915(h)(4).

Density Bonus. A density increase for residential units over the otherwise allowed residential density under the applicable zoning and land use designation on the date an application is deemed complete.

Density Bonus Housing Agreement. A legally binding agreement between a developer and the Housing Authority to ensure that continued affordability of the affordable housing units required by this Chapter persists and the units are maintained in accordance with this Chapter.

Density Bonus Units. Those additional residential units granted pursuant to the provisions of this Chapter.

Housing Authority. An appointed body of the City of Santa Rosa authorized to engage in or assist in the development or operation of affordable housing.

Housing Development. A development project for five or more residential units. Within this Chapter, it shall also include a subdivision or common interest development, a project which rehabilitates and converts a commercial building to a residential use and a condominium conversion of an existing multifamily building.

Incentives or Concessions. Regulatory concessions which include, but are not limited to, the reduction of site development standards or zoning code requirements, approval of mixed-use zoning in conjunction with the housing development, or any other regulatory incentive which would result in identifiable, financially sufficient, and actual cost reductions that are offered in addition to a density bonus.

Initial Subsidy. 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 down payment assistance or mortgage assistance. If upon resale the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value. (e.g., X (fair market value of the home to be purchased) - Y (the price the moderate income family paid for the home) + Z (amount of any down payment assistance) = Initial Subsidy).

Low Income Household. A household whose income does not exceed 80 percent of the area median income for Sonoma County, as published and periodically updated by the State Department of Housing and Community Development pursuant to Section 50079.5 of the California [Health and Safety Code](#).

Moderate Income Household. A household whose gross income does not exceed 120 percent of the area median income for Sonoma County as published and periodically updated by the State Department of Housing and Community Development pursuant to Sections 50079.5 and 50052.5 of the California [Health and Safety Code](#).

Proportionate Share of Appreciation. The ratio of the local government's initial subsidy as defined above to the fair market value of the home at the time of initial sale. (e.g., X (initial subsidy) /Y (fair market value) = Proportionate Share of Appreciation).

Senior Citizen Housing Development. A residential development developed, substantially rehabilitated or renovated, and having at least 35 dwelling units for senior citizens in compliance with the requirements of Section 51.3 and 51.12 of the California [Civil Code](#), or a mobile home park that limits residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the [Civil Code](#).

Very Low Income Household. A household whose income does not exceed 50 percent of the area median income for Sonoma County, as published and periodically updated by the State Department of Housing and Community Development pursuant to Section 50105 of the California [Health and Safety Code](#).

(Ord. 3960 § 1, 2010)

20-31.030 Application for density bonus and incentives or concessions.

At the time the applicant of a proposed housing development, seeking a density bonus and concessions or incentives under this Chapter, files a formal application for approval of the proposed development with the Department of Community Development the following information shall be submitted with the fees and required application:

- A. Identification of the location, acreage, and the maximum number of base units allowed under the zoning and the land use designated under the General Plan without the density bonus.
- B. Identification of the total number of units proposed, specifically identifying the density bonus units and the affordable units which will demonstrate eligibility under this Chapter.
- C. Identification of the requested concessions or incentives or a list of any alternative concessions or incentives which would provide, in the developer's opinion, an equivalent financial value to the concession or incentive requested. This requirement does not impair the applicant from substituting a new incentive or concession from what is initially proposed, but substitution may cause project delays and require revision of environmental documents, and may necessitate additional processing fees as determined by the Director of Community Development.
- D. A clear statement of how the requested concessions or incentives are necessary to make the proposed housing development economically feasible, and result in identifiable, financially sufficient and actual cost reductions. The information should be sufficiently detailed to enable City staff to examine the conclusions reached by the developer.
- E. Other pertinent information as the Director of Community Development may require to enable the City to adequately analyze the identifiable, financially sufficient and actual cost reductions of the proposed housing development with respect to the requested additional concession or incentive and other concessions or incentives which may be made available.

(Ord. 3960 § 1, 2010)

20-31.040 Processing of density bonus application.

- A. Once deemed complete, the density bonus application shall be processed and determinations made concurrent with the underlying housing development application.
- B. Review authority. A request for density bonus will be reviewed by the same review authority as the housing development's other entitlements specifically noted below. The reviewing authority shall grant the density bonus and requested incentive(s) or concession(s) unless the findings in Section [20-31.080\(B\)](#) can be made.
 1. Design Review. When a proposed housing development needs only Design Review, then the Design Review Board will consider and act on the density bonus request when the preliminary Design Review application is considered.
 2. Planning Commission/City Council. If the project requires entitlements or an environmental clearance to be considered by the Planning Commission and/or the City Council, then these decision bodies will consider

and act on the density bonus request concurrent with the applicable project entitlement/environmental clearance.

C. A housing development including at least 20 percent of total units affordable to very low or low income households or a combination of the two, with affordable rents maintained through an agreement with the Housing Authority or another governmental agency, shall be entitled to priority processing. Priority processing shall mean a timeline for review of the housing development and all associated applications as mutually agreed to by the City and the developer.

D. Application for Density Bonus Housing Agreement. Once the proposed housing development has received its approval for density bonus, as described above, the developer shall file an application, including the payment of any processing fees with the Housing Authority for approval and finalization of the Density Bonus Agreement in compliance with the requirements set forth in Section [20-31.100](#).

(Ord. 3960 § 1, 2010)

20-31.050 Eligibility criteria for density bonus.

A. The City of Santa Rosa shall consider a density bonus and provide incentives or concessions as described in Section [20-31.080](#), when a developer of a housing development seeks and agrees to construct a housing development that will contain at least one of the following:

1. Ten percent of the total units of a housing development strictly for low income households as defined herein;
2. Five percent of the total units of a housing development strictly for very low income households as defined herein;
3. A senior citizen housing development, as defined herein;
4. Ten percent of the total dwelling units in a condominium or planned unit development for persons and families of moderate income households as defined herein, provided that all units in the development are offered to the public for purchase.

(Ord. 3960 § 1, 2010)

20-31.060 Project specific density bonus.

The City of Santa Rosa will allow a housing development a density bonus and concessions or incentives meeting all the applicable eligibility requirements of this Chapter according to the following density bonus options. In the event that the minimum requirements for granting density bonus units or number of applicable concessions or incentives as set forth in California [Government Code](#) Section 65915 is amended or modified after the adoption of this Chapter by the City, then the lowest minimum requirements shall apply.

A. Density bonus for very low income households. If a housing developer elects to construct units for very low income households, the development shall be entitled to the following density bonus calculation:

Provision of Very Low Income Units		
Percentage of Very Low Income Units Affordable	Density Bonus Available*	Number of Incentives or Concessions
5%	20%	1
6%	22.5%	1
7%	25%	1
8%	27.5%	1
9%	30%	1

10%	32.5%	2
11%	35%	2
15%	35%	3

* The allowed increase is the percentage over the total number of units that would be allowed without a density bonus.

B. Density bonus for low income households. If a housing developer elects to construct units for low income households, the housing development shall be entitled to the following density bonus calculation:

Provision of Low Income Units		
Percentage of Low Income Units Affordable	Density Bonus Available*	Number of Incentives or Concessions
10%	20%	1
11%	21.5%	1
12%	23%	1
13%	24.5%	1
14%	26%	1
15%	27.5%	1
17%	30.5%	1
18%	32%	1
19%	33.5%	1
20%	35%	2
30%	35%	3

* The allowed increase is the percentage over the total number of units that would be allowed without a density bonus.

C. Senior housing. If a housing developer elects to construct a senior citizen housing development, the density bonus shall be 20 percent of the total number of allowed housing units without the density bonus.

D. Moderate income units in condominiums and planned developments. If a housing developer elects to construct units for moderate income households, the development shall be entitled to the following density bonus calculation:

Moderate Income Units		
Percentage of Moderate Income Units Affordable	Density Bonus Available*	Number of Incentives or Concessions
10%	5%	1
11%	6%	1
12%	7%	1
13%	8%	1
14%	9%	1

15%	10%	1
16%	11%	1
17%	12%	1
18%	13%	1
19%	14%	1
20%	15%	2
21%	16%	2
23%	18%	2
24%	19%	2
25%	20%	2
26%	21%	2
27%	22%	2
28%	23%	2
30%	25%	3
31%	26%	3
32%	27%	3
33%	28%	3
34%	29%	3
35%	30%	3
36%	31%	3
37%	32%	3
38%	33%	3
39%	34%	3
40%	35%	3

* The allowed increase is the percentage over the total number of units that would be allowed without a density bonus.

E. Density bonus for land donation. When an applicant for a tentative map, parcel map, or other residential development approval donates at least one acre of land or enough land to develop 40 units, then the applicant shall be entitled to a 15 percent increase above the otherwise maximum allowable residential density for the entire housing development as follows:

Land Donation	
Percentage of Very Low Income Units	Percentage Density Bonus
10%	15%
11%	16%
12%	17%
13%	18%
14%	19%
15%	20%

16%	21%
17%	22%
18%	23%
19%	24%
20%	25%
21%	26%
22%	27%
23%	28%
24%	29%
25%	30%
26%	31%
27%	32%
29%	34%
30%	35%

1. Nothing in this subsection shall be construed to enlarge or diminish the authority of the City to require a developer to donate land as a condition of development.
2. The density bonus for land dedication shall be in addition to any density bonus earned pursuant to Section [20-31.060](#) and up to a maximum combined increase of 35 percent.
3. An applicant with a land donation shall be eligible for the increased density bonus if all of the following conditions are met:
 - a. The applicant donates and transfers the land to the City no later than the date of approval of the City of the final subdivision map, parcel map, or housing development application for the proposed housing development seeking the density bonus.
 - 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 housing development seeking the density bonus.
 - c. The land proposed to be donated to the City:
 - (1) Has the appropriate General Plan designation and is appropriately zoned for development at the density described in paragraph (3) of subsection (c) of Section 65583.2; and
 - (2) Is or will be served by adequate public facilities and infrastructures; and
 - (3) Is donated no later than the date of approval of the final subdivision map, parcel map or housing development application seeking a density bonus and has 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; and
 - (4) Is transferred to the City or a housing developer approved by the City; and
 - (5) Shall be within the boundary of the proposed development or within one-quarter mile of the boundary of the proposed development; and
 - (6) Must have a proposed source of funding for the very low income units prior to the approval of the final subdivision map, parcel map or housing development application seeking the density bonus.
 - d. The transferred land and the affordable housing units shall be subject to a deed restriction, which shall be recorded on the property upon dedication, ensuring continued affordability of units for at least 30

years from the date of occupancy.

F. Condominium conversions. Density bonus for condominium conversion, shall be considered and approved in accordance with Section 65915.5 of the California [Government Code](#) for specifications.

(Ord. 3960 § 1, 2010)

20-31.070 Density bonus for development of child care facility.

A. A housing development meeting the requirements of Sections [20-31.050](#) and [20-31.060](#) and including a child care facility that will be located on the premises of, as part of, or adjacent to, such a housing development shall receive either of the following:

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

B. When a housing development is providing a child care facility consistent with the ordinance codified in this Chapter, then the conditions of approval shall require that:

1. 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 affordable units are required to remain affordable; and
2. Of the children who attend the child care facility, the children of very low income households, lower income households, or persons or families of moderate income shall equal a percentage that is equal to or greater than the percentage of affordable units that are required pursuant to Section [20-31.050](#).

C. The City shall not be required to provide a density bonus or incentive or concession for a child care facility if it makes a written finding, based upon substantial evidence, that the community has adequate child care facilities.

(Ord. 3960 § 1, 2010)

20-31.080 Available incentives and concessions.

In addition to the applicable density bonus described above, an applicant may request incentives or concessions in connection with its application for a density bonus in accordance with the density bonus calculation set forth in Section [20-31.060](#).

A. An incentive or concession may mean:

1. A reduction in the site development standards or a modification of zoning code requirements including, but not limited to:
 - a. Reduced minimum lot size or dimension,
 - b. Reduced minimum setbacks;
2. Approval of mixed-use development in conjunction with the proposed housing development if the nonresidential land uses will reduce the cost of the proposed housing development, and the nonresidential land uses are compatible with the proposed housing development and surrounding development;
3. Other regulatory incentives or concessions proposed by the applicant or that the City determines will result in identifiable, financially sufficient, and actual cost reductions.

B. The City shall grant incentive(s) or concession(s) requested by the applicant unless the City can make a written finding, based upon the substantial evidence, of any of the following:

1. The incentive or concession is not required in order to provide for affordable housing costs or affordable rents.
2. The incentive or concession would have a specific adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5 of the California [Government Code](#), upon public health and safety or physical environment or any real property that is listed in the California Register of Historical Resources and

for which the City determines 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.

3. The incentive or concession would be contrary to State or Federal law.

(Ord. 3960 § 1, 2010)

20-31.090 General provisions for density bonuses and incentives/concessions.

- A. An affordable unit provided in order to be eligible under this Chapter shall also be considered an allocated unit under the City's Housing Allocation Plan provided it also meets the definition of an allocated unit in the Housing Allocation Plan.
- B. All density bonus calculations resulting in fractional units shall be rounded up to the next whole number.
- C. The granting of a density bonus shall not be interpreted, in and of itself, to require a General Plan amendment, zoning change, or other discretionary approval.
- D. Upon request by the applicant, the City shall not require the proposed housing development eligible for a density bonus pursuant to this Chapter to provide a parking ratio, including handicapped and guest parking, that exceeds the following:
 - 1. Zero to one bedrooms: one onsite parking space.
 - 2. Two to three bedrooms: two onsite parking spaces.
 - 3. Four and more bedrooms: two and one-half parking spaces.

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

E. The City shall not apply any development standard that would have the effect of precluding the construction of a proposed housing development meeting the requirements of Section [20.31.060](#) at the densities or with the incentives permitted by this Chapter. An applicant may submit with its application to the City a proposal for the waiver or reduction of development standards. A waiver or reduction of development standards, the application of which would physically preclude the development, shall not reduce nor increase the number of incentives or concessions being requested. Nothing in this subsection, however, shall be interpreted to require the City 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 of the California [Government Code](#), 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 the City determines there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Furthermore, the applicant shall be required to prove that the waiver or modification is necessary to make the affordable units economically feasible.

F. Location of affordable units. The location of the affordable units within the housing development may be at the discretion of the developer. However, the affordable units shall:

- 1. Be constructed at the same time as the market units are constructed;
- 2. Be reasonably dispersed throughout the development and/or phases if applicable;
- 3. Be a similar unit type/size to the overall housing development; and
- 4. Be reasonably compatible with the design or use of the remaining units in terms of appearance, materials and quality finish.

(Ord. 3999 § 2, 2012; Ord. 3960 § 1, 2010)

20-31.100 Required Density Bonus Agreement and terms of agreement.

A. A Density Bonus Housing Agreement must be executed prior to recording any final map for the underlying property or prior to the issuance of any building permit for the housing development, whichever comes first. The Density Bonus Housing Agreement shall be binding on all future owners and successors of interests of the housing development.

- B. The Density Bonus Housing Agreement shall:
1. Identify the type, size and location of each affordable housing unit required hereunder;
 2. Identify the term of the agreement, which would define the term of affordability of the required units;
 3. Require that the affordable housing units be constructed and completed by the developer as specified in this Chapter and in accordance with State law;
 4. Require that each affordable housing unit be kept available only to members of the identified income group at the maximum affordable rent during the term of the agreement;
 5. Identify the means by which such continued availability shall be secured and enforced and the procedures under which the affordable housing units shall be leased and shall contain such other terms and provisions, the Housing Authority may require. The agreement, in its form and manner of execution, shall be in a form able to be recorded with the Sonoma County Recorder;
 6. The Density Bonus Housing Agreement shall be reviewed and approved by the Executive Director of the City's Housing Authority and the affordability of the required units shall be monitored for compliance by the Housing Authority staff. The Housing Authority is hereby expressly authorized to act as the City's agent to enter into the Density Bonus Housing Agreement for the purpose of enforcing the terms of the agreement consistent with this Chapter.
- C. Required terms for the continued availability of affordable units.
1. Low and very low income households. A housing developer providing low and very low income units in accordance with this Chapter must continue to restrict those units to low or very low income households for a minimum of 30 years or longer term under another regulatory agreement from the date of initial occupancy.
 2. Moderate income households. In the case of a housing development providing moderate income units, the initial occupant of the unit must be a person or family of moderate income.
 - a. Upon resale, the seller of the unit shall retain the value of any improvements, the down payment, and the seller's proportionate share of appreciation. The local government shall recapture any initial subsidy and its proportionate share of appreciation; which 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. Any recaptured funds shall be deposited into the Housing Authority Trust Account to be used in accordance with subsection (e) of Section 33334.2 of the [Health and Safety Code](#).

(Ord. 3960 § 1, 2010)

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