

ORDINANCE NO. _____

ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA ROSA TO AMEND CITY ZONING CODE CHAPTER 20-31, DENSITY BONUS AND OTHER DEVELOPER INCENTIVES TO BE CONSISTENT WITH STATE GOVERNMENT CODE SECTION 65915, DENSITY BONUSES AND OTHER INCENTIVES - FILE NUMBER REZ21-003

WHEREAS, in 2016 the City Council accepted the Housing Action Plan to address ongoing unmet local housing demand and to implement the City's General Plan Housing Element; and

WHEREAS, the Housing Action Plan's first program directed staff to prepare an amendment to Zoning Code Chapter 20-31 Density Bonus and Other Developer Incentives (Ordinance) to implement the State's density bonus provisions in Government Code Section 65915 Density Bonus and Incentives (State Law) and to provide a supplemental density bonus; and

WHEREAS, on January 8, 2019 the Council amended the Ordinance with density bonus provisions consistent with State Law in effect at that time and with a local supplemental density program; and

WHEREAS, State Law has been amended since the Ordinance was last amended by the Council, most notably on January 1, 2021 when Assembly Bill 2345 (Gonzalez, September 28, 2020) took effect to further incentivize the construction of housing units by mandating the following provisions in State Law:

- a. The maximum density bonus increased from 35% to 50% above the maximum general plan land use density and the unit set-aside percentage at which developers can earn density bonus is reduced.
- b. One-hundred percent lower income housing development is allowed a 100% density bonus, consisting of 80% lower income units and 20% moderate income units, four concessions or incentives, and an automatic 33-foot height increase.
- c. Developers receiving four incentives are limited to one development standard waiver unless the City authorizes more.
- d. Maximum parking ratios for certain projects within ½ mile of a major transit stop are reduced further.
- e. Adjustment to the supplemental density bonus to accommodate increased State maximum density bonus and still maintain the 100% maximum density bonus housing development may earn with a supplemental density bonus.
- f. Clarification of certain terms including "unobstructed access" to a major transit stop; and

WHEREAS, on August 12, 2021, the Planning Commission of the City of Santa Rosa held a public hearing to consider the proposed Ordinance amendment and, after hearing public

testimony adopted a resolution recommending the Council amend the Ordinance to maintain consistency with State Law as amended by AB 2345 (Gonzales) based on the following findings:

- a. The proposed Zoning Code amendments are consistent with the goals and policies of all elements of the General Plan, and any applicable specific plan in that it maintains consistency with State Density Bonus Law and the supplemental density bonus provisions promote infill affordable housing development within the City's Priority Development Areas, and within General Plan land use designations that have been identified as appropriate for higher density housing; and
- b. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City in that it would amend the Zoning Code to maintain consistency with State Density Bonus Law, and provide an incentive through a supplemental density bonus toward the production of affordable housing to meet the City's housing needs; and
- c. The proposed amendment is internally consistent with other applicable provisions of this Zoning Code; and
- d. The City adopted a negative declaration for the current Density Bonus Ordinance on January 8, 2019 and pursuant to CEQA Guidelines Section 15162, the proposed Density Bonus Ordinance amendment will not require subsequent environmental review for the following reasons:
 1. The amendments to the State Density Bonus provisions of the ordinance, which are required to comply with the new State Density Bonus Law, as amended by AB 2345, and the amendments to the Supplemental Density Bonus provisions to complement State Density Bonus Law will not increase total density that may be achieved by housing developments eligible for a supplemental density bonus. Also, all density bonus projects subject to the amended Density Bonus Ordinance will continue to be constrained by infrastructure capacity as well as public service (e.g., fire protection) health and safety standards. Therefore, the amendment will not result in new development that will, directly or indirectly, increase cumulative residential development beyond what was previously evaluated by the negative declaration; and
 2. There are no new significant environmental effects associated with the City's Density Bonus Ordinance in that the amended ordinance does not change any supplemental density bonus provision that could expand cumulative residential development in the City beyond which is analyzed by negative declaration. It will not expand nor intensify local development allowed by the current supplemental density bonus program. Furthermore, the amended ordinance does not contain any local density bonus provision that will expand cumulative residential development beyond which is allowed by the State Density Bonus law.

THE PEOPLE OF THE CITY OF SANTA ROSA DO ENACT AS FOLLOWS:

Section 1. The City Council finds, based on evidence and records presented, that amending Chapter 20-31, Density Bonus and Other Developer Incentives of the Santa Rosa City

Code, as follows, is required for consistency with State Government Code Section 65915, Density Bonuses and Other Incentives; and

The Council further finds and determines that:

- A. The proposed amendment is consistent with the goals and policies of all elements of the General Plan, and any applicable specific plan in that further implement the goals and policies of General Plan related to housing and land use by providing clarity and consistency with the State and local regulations; and
- B. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City in that the amendments support approved General Plan Housing Element goals and Zoning Code land uses and regulations. As such, the proposed amendments will not result in any substantive changes to the General Plan Housing Element and Santa Rosa Zoning Code; and
- C. The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA) and pursuant to CEQA Guidelines Section 15162, the proposed Density Bonus Ordinance amendment will not require subsequent environmental review for the following reasons:
 - a. The amendments to the State Density Bonus provision of the ordinance, which are required to comply with the new State Density Bonus Law, as amended by AB 2345, and the amendments to the Supplemental Density Bonus provisions to complement State Density Bonus Law will not increase total density that may be achieved by housing development eligible for a supplemental density bonus. Also, all density bonus projects subject to the amended Density Bonus Ordinance will continue to be constrained by infrastructure capacity as well as public service (e.g., fire protection) health and safety standards. Therefore, the amendment will not result in new development that will, directly or indirectly, increase cumulative residential development beyond what was previously evaluated by the negative declaration; and
 - b. There is no new significant environmental effect associated with the City's Density Bonus Ordinance in that the amended ordinance does not change any supplemental density bonus provision that could expand cumulative residential development in the City beyond which is analyzed by negative declaration. It will not expand nor intensify local development allowed by the current supplemental density bonus program. Furthermore, the amended ordinance does not contain any local density bonus provision that will expand cumulative residential development beyond which is allowed by the State Density Bonus law.

Section 2. Purpose. It is the purpose of this ordinance amendment is to update the City Zoning Code Chapter 20-31, Density Bonus and Other Developer Incentives to be consistent with State Government Code Section 65915, Density Bonuses and Other Incentives.

Section 3. Section 20-31.010 Purpose is amended to read as follows:

“This Chapter is intended to provide incentives for the production of Affordable Housing, Specialized 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 the General Plan and applicable specific plans, implement the Santa Rosa Housing Action Plan to address housing needs in the community, and ensure consistency between local regulations and California Government Code Section 65915 (State Density Bonus Law).

State Density Bonus Law shall apply city-wide to eligible projects as defined in this Chapter and in State law. In addition, a Supplemental Density Bonus is available for eligible projects located within the North Station Specific Plan and Downtown Station Specific Plan as outlined in this Chapter.

In the event that any provision in this Chapter conflicts with State law, State law shall control.”

Section 4. Section 20-31.020 Definitions: Density Bonus Housing Agreement is amended to read as follows:

“Density Bonus Housing Agreement. A legally binding agreement between an Applicant and the Housing Authority of the City of Santa Rosa (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.”

Section 5. Section 20-31.020 Definitions: Housing Authority is amended to read as follows:

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

Section 6. Section 20-31.020 Definitions: Income (Household), Extremely Low is amended to read as follows:

“Income (Household), Extremely Low. A household whose gross income does not exceed 30 percent of the area median income for the Santa Rosa Metropolitan Area, adjusted for family size, as published and periodically updated by the U.S. Department of Housing and Urban Development and the State Department of Housing and Community Development pursuant to Section 50079.5 of the California Health and Safety Code.”

Section 7. Section 20-31.020 Definitions: Income (Household), Very Low is amended to read as follows:

“Income (Household), Very Low. A household whose gross income does not exceed 50 percent of the area median income for the Santa Rosa Metropolitan Area, adjusted for family size, as published and periodically updated by U.S. Department of Housing and Urban Development and the State Department of Housing and Community Development pursuant to Section 50105 of the California Health and Safety Code.”

Section 8. Section 20-31.020 Definitions: Income (Household), Low is amended to read as follows:

“Income (Household), Low. A household whose gross income does not exceed 80 percent of the area median income for the Santa Rosa Metropolitan Area, adjusted for family size, as published and periodically updated by the U.S. Department of Housing and Urban Development and the State Department of Housing and Community Development pursuant to Section 50079.5 of the California Health and Safety Code.”

Section 9. Section 20-31.020 Definitions is amended to add Major Transit Stop, located within one-half mile and read as follows:

“Major Transit Stop, located within one-half mile. Means any point on a proposed development, for which an applicant seeks a density bonus, other incentives or concessions, waivers or reductions of development standards, or a vehicular parking ratio pursuant to this section, that is within one-half mile of any point on the property on which a major transit stop is located, including any parking lot owned by the transit authority or other local agency operating the major transit stop.”

Section 10. Section 20-31.020 Definitions: Unobstructed Access is amended read as follows:

“Unobstructed Access. Unobstructed access means a resident of a Housing Development has pedestrian access to a Major Transit Stop or a fixed bus route without encountering natural or constructed impediments including freeways, rivers, mountains, and bodies of water, but does not include residential structures, shopping centers, parking lots, or rails used for transit.”

Section 11. Section 20-31.030.A State density bonus applications is amended read as follows:

“State density bonus applications. For a project seeking a density bonus pursuant to State law, the following information is required:”

Section 12. Section 20-31.030.B Supplemental density bonus is amended read as follows:

“Supplemental Density Bonus applications.”

Section 13. Section 20-31.030.B.2.b is amended read as follows:

“Affordable Housing units and the targeted income level provided as a share of the units in the Base Project to qualify for a State density bonus, or identification of other qualifying criteria for the State density bonus;”

Section 14. Section 20-31.030.B.3.a is amended read as follows:

“Requested Incentives or Concessions to qualify for a State Density Bonus can be utilized to offset the cost of affordable housing associated with establishing eligibility for a Supplemental Density Bonus.”

Section 15. Section 20-31.050.A.1 is amended read as follows:

“Low-Income Projects. Ten percent of the total units of a Housing Development strictly for low-income households as defined herein;”

Section 16. Section 20-31.050.A.4 is amended read as follows:

“For-Sale Projects. Ten percent of the total dwelling units in a Common Interest 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.”

Section 17. Section 20-31.050.A.6 is amended read as follows:

“Commercial Projects. When an applicant of an approved commercial project has entered into an agreement for partnered housing to contribute affordable housing through a joint project or two separate projects encompassing affordable housing, the City shall grant to the Applicant development intensity bonuses relative the maximum allowances defined in the General Plan, or Zoning Ordinance if the General Plan does not provide a maximum allowance, as prescribed in California Government Code Section 65915.7 that may include:

- a. Up to a 20% increase in maximum allowable intensity in the General Plan.
- b. Up to a 20% increase in maximum allowable floor area ratio.
- c. Up to a 20% increase in maximum height requirements.
- d. Up to a 20% reduction in minimum parking requirements.
- e. Use of a limited-use elevator for upper floor accessibility.
- f. An exception to a Zoning Code or other land use regulation.”

Section 18. Section 20-31.050.A.8 is amended read as follows:

“Student Housing Development. A student housing development that sets aside twenty percent of the total units for lower income students subject to the following requirements:”

Section 19. Section 20-31.060.A is amended read as follows:

“Very low-income households. If an Applicant elects to construct units for very low-income households, including Specialized Housing as defined in Section 20-31.050.A.5 (Eligibility Criteria for Density Bonus), the development shall be entitled to the density bonus corresponding to the very low income unit set aside percentage listed in Table 3.1 Density Bonus.”

Section 20. Section 20-31.060.B is amended read as follows:

“Density bonus for low-income households. If an Applicant elects to construct units for low-income households, the Housing Development shall be entitled to the bonus corresponding to the low-income unit set aside percentage listed in Table 3.1 Density Bonus.”

Section 21. Section 20-31.060.C is amended read as follows:

“Moderate-income units in a Common Interest Development. If an Applicant elects to construct units for moderate income households, the development shall be entitled to the density bonus corresponding to the moderate-income unit set aside percentage listed in Table 3.1 Density Bonus.”

Section 22. Section 20-31.060.E.2 is amended read as follows:

“The density bonus for land dedication shall be in addition to any density bonus earned pursuant to this Section up to a maximum combined increase of 50 percent.”

Section 23. Section 20-31.060.E.3 is amended read as follows:

“An applicant with a land donation shall be eligible for the density bonus if all the following conditions are met:”

Section 24. Section 20-31.060.E.3.e is amended read as follows:

“The density bonus available for land donation to an eligible project shall correspond to the very low-income unit set aside percentage listed in Table 3.1 Density Bonus.”

Section 25. Section 20-31.060.G is amended read as follows:

“Student Housing. For Housing Development that meets the Student Housing eligibility criteria in Section 20-31.050.A.8 and sets aside at least 20 percent of the units for lower income students, the Density Bonus shall be 35 percent in accordance with Table 3.1 Density Bonus.”

Section 26. Section 20-31.060 is amended to delete EXAMPLE: Density Bonus Calculation.

Section 27. Section 20-31.060 is amended to add Table 3.1 as follows:

**“TABLE 3.1 STATE DENSITY BONUS
PERCENTAGE SET-ASIDE FOR EACH QUALIFIED HOUSING DEVELOPMENT TYPE**

Base Project Set Aside **	Very Low Income	Low Income	Mod Income ***	Land Donation	Senior ****	Foster Youth, Disabled Vets, Homeless	Student Housing
5%	20%	-	-	-	20%	-	-
6%	22.5%	-	-	-	20%	-	-
7%	25%	-	-	-	20%	-	-
8%	27.5%	-	-	-	20%	-	-
9%	30%	-	-	-	20%	-	-
10%	32.5%	20%	5%	15%	20%	20%	-
11%	35%	21.5%	6%	16%	20%	20%	-
12%	35%	23%	7%	17%	20%	20%	-
13%	35%	24.5%	8%	18%	20%	20%	-
14%	35%	26%	9%	19%	20%	20%	-
15%	35%	27.5%	10%	20%	20%	20%	-
16%	35%	27.5%	11%	21%	20%	20%	-
17%	35%	30.5%	12%	22%	20%	20%	-
18%	35%	32%	13%	23%	20%	20%	-
19%	35%	33.5%	14%	24%	20%	20%	-
20%	35%	35%	15%	25%	20%	20%	35%
21%	35%	35%	16%	26%	20%	20%	35%
22%	35%	35%	17%	27%	20%	20%	35%
23%	35%	35%	18%	28%	20%	20%	35%
24%	35%	35%	19%	29%	20%	20%	35%
25%	35%	35%	20%	30%	20%	20%	35%
26%	35%	35%	21%	31%	20%	20%	35%
27%	35%	35%	22%	32%	20%	20%	35%
28%	35%	35%	23%	33%	20%	20%	35%
29%	35%	35%	24%	34%	20%	20%	35%
30%	35%	35%	25%	35%	20%	20%	35%
31%	35%	35%	26%	35%	20%	20%	35%
32%	35%	35%	27%	35%	20%	20%	35%
33%	35%	35%	28%	35%	20%	20%	35%
34%	35%	35%	29%	35%	20%	20%	35%
35%	35%	35%	30%	35%	20%	20%	35%
36%	35%	35%	31%	35%	20%	20%	35%
37%	35%	35%	32%	35%	20%	20%	35%
38%	35%	35%	33%	35%	20%	20%	35%
39%	35%	35%	34%	35%	20%	20%	35%
40%	35%	35%	35%	35%	20%	20%	35%
100% *****	80%	80%	80%	35%	20%	20%	35%

* All density bonus calculations resulting in fractions are rounded up to the next whole number.

**Affordable unit percentage is calculated excluding units added by a density bonus.

***Moderate income density bonus applies to for sale units, not to rental units.

****No affordable units are required for senior units.

***** Applies when no less than 80% of the total units (other than manager’s units) are allocated lower income units and no more than 20% are moderate income units.”

Section 28. Section 20-31.070.C is amended to read as follows:

“Eligible Locations. A project that receives the maximum State Density Bonus is eligible for a Supplemental Density Bonus above the maximum State Density Bonus if it is:”

Section 29. Section 20-31.070.D is amended to read as follows:

“Supplemental Bonus Amount. Table 3.2 lists the maximum Supplemental Density Bonus available to an eligible project in the applicable Land Use Designations, depending on the proximity of the property to a Major Transit Stop or School Facility, or if the property is a designated General Plan Housing Opportunity Site.”

Section 30. Table 3.10 is renumbered to Table 3.2. and is amended to read as follows:

“Table 3.2: Maximum Supplemental Density Bonus

	Maximum Supplemental Density Bonus for a Project in a Station Specific Plan, on Eligible Land Use Designations pursuant to this Section ¹ , and Located:					
	In an eligible Land Use only (A) ²	(A) and ½ Mile to Major Transit Stop (B) ³	(A) and ½ Mile to a School Facility (C) ³	All of (A), (B) and (C)	In Medium-Low Density Land Use and (B) and (C) ²	On a Housing Opportunity Site
Supplemental Bonus Amount	10% ²	30%	30%	50%	10%	50%
Total Bonus (with 35% State Density Bonus)	60% ²	80%	80%	100%	60%	100%

Notes:

- (1) Pursuant to Subsection 20-31.070.C.2, within Historic Preservation Districts, only the Retail and Business Services, Transit Village Medium, and Transit Village Mixed Use Land Use Designations are eligible for a supplemental density bonus pursuant to this table.
- (2) Properties in the Medium-Low Density General Plan Land Use that are not located both within ½ Mile of a Major Transit Stop and School Facility are not eligible for a Supplemental Density Bonus.
- (3) Distances to a Major Transit Stop or a School Facility shall be measured as the shortest distance from the edge of the property boundaries of the project and facility.

Section 31. Section 20-31.070.D is renumbered to Section 20-31.070.E and amended to read as follows:

“Eligibility Points. The requirements to establish eligibility for a Supplemental Density Bonus are based on Eligibility Points, which are calculated using the following formula:

$$\left(\frac{\text{Percent Bonus Requested above 50\%}}{\text{Max Supplemental Bonus (see Table 3.2)}} \right) X 100 =$$

Eligibility Points (rounded to the next multiple of 5)”

Section 32. Section 20-31.070.E is renumbered to 20-31.070.F. and amended to read as follows:

“Affordable Housing. At least 60 percent of the project’s Eligibility Point requirement shall be fulfilled by providing affordable housing units on-site, based on a percentage of Base Project units, in compliance with Table 3.3.”

Section 33. Section 20-31.070.F is renumbered to 20-31.070.G. and amended to read as follows:

“Rental Projects. Rental projects shall meet the affordable housing requirement by providing affordable housing units on-site at a mix of income levels as prescribed Table 3.3.”

Section 34. Section 20-31.070.G is renumbered to 20-31.070.H and amended to read as follows:

“100% Affordable Projects. Rental projects in which all proposed units will be affordable to very low- or low-income households are eligible for a 100% density bonus in accordance with Section 20-31.060.”

Section 35. Section 20-31.070.H is renumbered to 20-31.070.I and amended as follows:

“Specialized Housing. Instead of providing Affordable Housing units across the three identified income levels in Table 3.3, rental projects can earn some or all their required Eligibility Points by including Specialized Housing units at the very low-income level pursuant to the schedule in Table 3.3.”

Section 36. Section 20-31.070.I is renumbered to 20-31.070.J. and amended to read as follows:

“For-Sale Projects. For-sale projects can earn Eligibility Points by including a percentage of housing units at the moderate-income level pursuant to the schedule in Table 3.3.”

Section 37. Table 3.11 is renumbered to Table 3.3.

Section 38. Section 20-31.070.J is renumbered to 20-31.070.K and amended to read as follows:

“Community Benefits. No more than 40 percent of the Eligibility Points required for a project may be earned through the provision of community benefits in accordance with Table 3.4.”

Section 39. Table 3.12 is renumbered to Table 3.4.

Section 40. Section 20-31.070.K is renumbered to 20-31.070.L.

Section 41. Section 20-31.070.L.1.a, as renumbered, is amended to read as follows:

“The proposed project will generate a sufficient number of Eligibility Points by providing at least 60% of all required Eligibility Points through affordable housing pursuant to Table 3.3, and that the remaining 40% are provided through additional affordable housing pursuant to Table 3.3 or through community benefits pursuant to Table 3.4 as outlined in this Section.”

Section 42. Section 20-31.070.L is renumbered to 20-31.070.M and is amended to delete EXAMPLE: Supplemental Density Bonus Calculation.

Section 43. Section 20-31.090 is amended to read as follows:

“In addition to a density bonus set forth in Section 20-31.060 (State Density Bonus) an Applicant may request a number of Incentives or Concessions corresponding to the minimum affordable housing set aside percentage listed in the following table. Furthermore, an Applicant for a 100% lower income housing development qualifying for four incentives and concessions and located within ½ mile of a major transit stop shall also receive a height increase of up to three additional stories or 33 feet.

Table 3.5: Incentives or Concessions Allowed Based on Affordable Housing Set Aside

Incentives or Concessions	Minimum Very Low-Income Percentage	Minimum Low-Income Percentage	Minimum Moderate-Income Percentage
1	5%	10%	10%
2	10%	20%	20%
3	15%	30%	30%
4	100% Low/Very Low/Mod (20% Moderate Allowed)*”		

Section 44. Section 20-31.100.F is amended to read as follows:

“State parking reduction. Per California Government Code Section 65915(p)1, upon request by the Applicant, the City shall not require a Housing Development eligible for a density bonus to provide more than the parking ratios listed in Table 3.6.

Table 3.6: Density Bonus Housing Development Maximum Parking Ratios *

Proximity to Transit	Affordability and Project Type	Number of Spaces
With paratransit or within ½ mile of a fixed bus route	100% rental housing affordable to lower or very low-income households	0.5 space per dwelling unit
	Senior citizen housing development	0.5 space per dwelling unit
	Special needs housing development	No parking required
	Supportive housing development	No parking required

Within ½ mile of a major transit stop	Other 100% rental housing affordable to lower or very low-income households	0.5 space per dwelling unit
	At least 11% very low-income housing set-aside	0.5 space per bedroom
	At least 20% lower income housing set-aside	0.5 space per bedroom
	Extremely low-income dwelling units	No parking required for the extremely low-income dwelling units only
All Other Projects		0-1 bedroom: 1 space per unit
		2-3 bedrooms: 2 spaces per unit
		4 or more bedrooms: 2.5 spaces per unit
* Inclusive of parking for guests and persons with a disability”		

Section 45. Section 20-31.110.B.4 is amended to read as follows:

“Require that each affordable housing unit be kept available only to members of the identified income group and rented for no more that the specified affordable rent during the term of the agreement.”

Section 46. Section 20-31.110.B.6 is amended to read as follows:

“The Density Bonus Housing Agreement shall be reviewed and approved by the Executive Director of the 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 and any necessary subsequent amendments for the purpose of enforcing the terms of the agreement consistent with this Chapter.”

Section 47. Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid and/or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

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Section 48. Effective Date. This ordinance shall take effect on the 31st day following its adoption.

This ordinance was introduced by the Council of the City of Santa Rosa on November 9, 2021.

IN COUNCIL DULY PASSED AND ADOPTED this ____ day of _____, 2021.

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST: _____ APPROVED: _____
City Clerk Mayor

APPROVED AS TO FORM: _____
City Attorney