

CITY OF SANTA ROSA
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL
FROM: ANDY GUSTAVSON, SENIOR PLANNER
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
SUBJECT: DENSITY BONUS ORDINANCE AMENDMENT

AGENDA ACTION: ORDINANCE INTRODUCTION

RECOMMENDATION

It is recommended by the Planning Commission and the Planning and Economic Development Department that the Council introduce an ordinance 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.

EXECUTIVE SUMMARY

On January 1, 2021 State Government Code Section 65915, Density Bonuses and Other Incentives, as amended by Assembly Bill 2345 (Gonzalez, September 28, 2020), took effect, and mandated the update of City Zoning Code Chapter 20-31, Density Bonus and Other Developer Incentives ("Density Bonus Ordinance") to comply with the following new State density bonus provisions:

1. 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.
2. A 100% 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.
3. Developers receiving four incentives are limited to one development standard waiver unless the City authorizes more.
4. Maximum parking ratios for certain projects within a half mile of a major transit stop are reduced further.

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5. Adjustment to the supplemental density bonus to accommodate increased State maximum density bonus and still maintain the 100% maximum density bonus housing developments may earn with a supplemental density bonus.
6. Clarification of certain terms including “unobstructed access” to a major transit stop.

BACKGROUND

In 1979, the State Density Bonus Law was adopted which allowed a 35% density bonus and other incentives to help stimulate affordable housing development within the State.

In 2004 the Council adopted City Code Chapter 20-31, Density Bonus and Other Developer Incentives, to implement State Density Bonus law within the City. The City subsequently amended its regulations in 2004, 2010 and 2012 to reflect State law changes.

In 2016, the Council’s Housing Action Plan (HAP) identified the City’s density bonus regulation as a tool that may help incentivize construction of affordable housing within the City. The HAP also directed staff to evaluate a supplemental density bonus above the State’s 35% density bonus.

On October 25, 2018, the Planning Commission recommended the Council adopt an amendment to the Density Bonus Ordinance and adopt the associated Negative Declaration.

In January 2019, the Council amended City Code Chapter 20-31, Density Bonus and Other Developer Incentives, to implement the State mandated 35% density bonus and three concessions and incentives and to allow eligible housing development located within the boundaries of the Downtown Station Area Specific Plan and the North Santa Rosa Station Area Specific Plan (“Station Plan Areas”) and a Supplemental Density Bonus up to 100%, in addition to the State’s density bonus, with a use permit.

On September 28, 2020, the Governor signed AB 2345 which amended the State Density Bonus Law. As a state-level regulation, projects satisfying the requirements of this law are eligible for the corresponding bonus notwithstanding any local density bonus regulation.

On January 1, 2021 the provisions of State Density Bonus law amended by AB 2345 took effect.

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On June 1, 2021 the State Department of Housing and Community Development (HCD) determined (Attachment 3) the City's existing Density Bonus Ordinance is not eligible for the AB 2345 exemption (Government Code section 65915(s)).

On August 12, 2021, the Planning Commission provided a recommendation (Attachment 4) that the Council adopt the proposed ordinance 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.

Project Description

For more than forty years, State Government Code Section 65915, Density Bonuses and Other Incentives ("State Density Bonus") has encouraged developers to build affordable housing units in exchange for density bonuses that increase the total number of dwelling units otherwise allowed, and provided relief from development standards (i.e., setbacks, lot coverage, height, etc.) that reduce the cost of affordable housing construction. The density bonus percentage and the number of incentives the developer is entitled to receive is based on the type and percentage of affordable units that are set aside in the housing development.

On January 1, 2021, AB 2345 (Gonzales), amendments to the State Density Bonus Law, took effect and triggered the following key changes to City Zoning Code Chapter 20-31, Density Bonus and Other Developer Incentives ("Density Bonus Ordinance").

- The maximum density bonus available increased from 35% to 50%. Now, for projects that provide 15% very low-income units, 24% low-income units, or 44% moderate income units in a common interest development ("for sale" condominiums), a density bonus of up to 50% above the otherwise maximum allowable density must be granted by right.
- The minimum percentage of units that must be set aside to low-income units for the developer to receive two or three concessions was reduced to 17% to receive two concessions, and 24% to receive three concessions.
- The parking standards applicable to density bonus projects located within a half mile of a major transit stop are reduced further. The maximum parking rate of 0.5 spaces now applies to a housing development project setting aside at least 20% low income or 11% very low-income housing. This same rate applies to a 100% low-income housing development or a senior housing development with paratransit or a half mile from a fixed bus route.

Attachments 1 and 2 to this staff report contain both clean and amended (strikeout and underline) versions of the Density Bonus Ordinance.

ANALYSIS

1. State Density Bonus law

The State Density Bonus Law is intended to encourage developers to include affordable housing in housing development projects. The law has been amended several times over the years as housing affordability continued to be a statewide concern. Now, the State Density Bonus establishes the density bonus and incentives as a right to any developer that sets aside affordable housing units in a housing development project.

The following table compares the affordable housing set aside needed to earn the maximum density bonus before and after the AB 2345 amendment to State Density Bonus Law took effect on January 1, 2021.

Maximum Density Bonus		
<i>Income</i>	<i>Pre-2021 Density Bonus Law</i>	<i>AB 2345 Amendments</i>
Very Low	35% bonus for 11% set aside	50% bonus for 15% set aside
Low	35% bonus for 20% set aside	50% bonus for 24% set aside
Moderate	35% bonus for 40%* reserve	50% bonus for 44%* reserve
*For-sale units only		

In addition, housing development entitled to a density bonus also earns one or more development incentives. The developer can use the incentives to relieve the project from development standards (e.g., setbacks, lot coverage, height, etc.) which increase the cost of affordable housing construction. The City must grant these incentives unless the City can show an unmitigable adverse impact on public health or safety, the physical environment or on historic properties would result.

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The following table shows AB 2345 reduced the Low Income set aside for a housing development to earn more than one incentive.

Incentives			
<i>Number Entitled</i>	<i>Very Low Income</i>	<i>Low Income</i>	<i>Moderate Income</i>
1	5%	10%	10%
2	10%	20% → 17%	20%**
3	15%	30% → 24%	30%**
** applies to a common interest development, as defined in Section 4100 of the Civil Code			

The following changes are also now mandated statewide.

- The State's maximum parking rate for a two- or three-bedroom unit is reduced from 2 to 1.5 spaces if requested by developer of a qualifying project.
- Parking standards are reduced further for eligible residential projects that (i) provide unobstructed access to a major transit stop or (ii) are restricted to for-rent housing for individuals who are 62 years of age or older with paratransit service or unobstructed access to a fixed bus route that operates at least eight times per day.
- The City now has discretion to grant additional waivers or reductions of development standards to projects located within a half mile radius of a major transit stop.

On June 1, 2021 the State Department of Housing and Community Development (HCD) determined (Attachment 3) the City's existing Density Bonus Ordinance is not eligible for the AB 2345 exemption (Government Code section 65915(s)). This exemption applies to jurisdictions with an adopted density bonus ordinance exceeding the State's former 35% density bonus requirement and allowed these ordinances to continue without amendment as is otherwise required. HCD determined the City did not qualify because its Supplemental Density Bonus provision did not apply to housing development citywide, but rather was only available to qualified housing development on certain sites located within the Downtown Station and North Santa Rosa Station planning areas.

2. General Plan Consistency

The Ordinance amendments triggered by AB 2345 will amplify the intent of the current Density Bonus Ordinance to encourage developers to build affordable and market rate

housing in Santa Rosa. The Density Bonus Ordinance, if amended as recommended, will continue to be consistent with General Plan goals and policies.

3. Other Applicable Plans

Downtown Station Area Specific Plan and North Santa Rosa Station Area Specific Plan

The proposed amendments also align with the goals and policies of the City's Downtown Station Area Specific Plan and the North Santa Rosa Station Area Specific Plan. Each of these Plans support higher density housing development within their boundaries, which coincide with the boundaries of two of the City's six Priority Development Areas (PDA), as well as encourage higher density development near major transit stops such as the Transit Mall and the two Sonoma Marin Area Rail Transit (SMART) stations. Further, the proposed ordinance amendments would support and implement the City's HAP and Inclusionary Housing Ordinance by enhancing the affordable housing production incentives provided by State law.

a. Inclusionary Housing Ordinance

The inclusionary housing ordinance requires residential housing development citywide to either include lower- and moderate-income units in a project ("allocated unit" or "inclusionary" unit) or pay an inclusionary fee. It was amended in 2019 to incentivize downtown residential development by offering reduced inclusionary set-aside and inclusionary fees for residential development projects located within the Downtown Station Area.

The amended Density Bonus Ordinance will continue to complement and incentivize downtown residential development by offering qualified downtown residential development a supplemental density bonus (described below).

4. Zoning Code

The key changes to the Density Bonus Ordinance triggered by AB 2345 are individually described below.

Expanded Density Bonus and Incentives

The State expanded the sliding scale which determines the density bonus and incentives developers may receive by: (1) lowering the minimum qualifying percentage of Very Low-, Low- and Moderate-Income housing a Housing Development must provide to earn a density bonus or incentive, and (2) increasing the maximum density bonus from 35% to 50% and the maximum number of incentives from three to four when a housing development is 100 percent low-income.

Comment: These changes are reflected in the new Density Bonus and Concession table which consolidates four existing tables in Section 20-31.050 Eligibility criteria for

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Density Bonus. The lower end of the supplemental density bonus range will be increased to reflect the new 50% State maximum density bonus for all qualified housing development.

100% Lower Income Projects

A developer building a 100% lower income housing development can exceed the General Plan land use density by 100%. As a further incentive, AB 2345 amended the State Density Bonus Law to allow 20% of the units in the housing development to be rented to moderate income households provided the remaining units are allocated as low-income units by an affordable housing agreement.

Comment: This new provision may help to improve the financial feasibility of lower income housing projects. It is added to Section 20-31.100 (General provisions for Density Bonuses and Incentives/Concessions) and reflected in the new consolidated density bonus table.

Waiver Limitation

Housing development projects receiving a maximum number of four development standard waivers are not eligible for additional waivers unless the developer specifies additional waivers at the time of the application. The City, at its discretion, may grant additional waivers requested by the developer after the application.

Comment: Previously, the developer could claim any number of development standard waivers, as necessary, to exercise or benefit from a granted density bonus or incentive. This new provision is intended to avoid waivers being claimed late in the project review process or during project construction. Section 20-31.100 General provisions for Density Bonuses and Incentives/Concessions is amended to accommodate this provision.

Reduced Parking Requirement.

Before the AB 2345 amendment, State Density Bonus Law allowed a parking reduction when a qualified housing development is within a half mile of and has unobstructed access to a major transit stop. The amended State Density Bonus law clarified this provision by:

- Stating the half mile distance measurement is measured from the housing development property to the nearest point of the major transit stop property.
- Clarifying “unobstructed access” to major transit stop means a path of travel that is not obstructed by freeways, rivers, mountains, and bodies of water, but does

not include residential structures, shopping centers, parking lots, or rails used for transit.

AB 2345 also amended the law to not require any parking for an age restricted (62+ years old) rental housing development within a half mile of a major transit stop or that is served by paratransit.

Comment: State Density Bonus law parking reductions updated in Section 20-31.100.F.

Supplemental Density Bonus.

The State's new 50% maximum density bonus requires adjustment to the supplemental density bonus provision of the Density Bonus Ordinance. This provision allows housing development located within the Downtown Station Area Specific Plan or the North Santa Rosa Station Area Specific Plan to exceed the State's maximum density by as much as 25%, 45% or 65%, depending on project location, in exchange for providing additional below market rate units and community benefits. A project qualifying for the 25% supplemental density bonus tier would be able to exceed general plan density by 60% (i.e., 35% state bonus + 25% supplemental bonus). The maximum density bonus that can be currently achieved downtown is 100% for a project that qualifies for the 65% supplemental density bonus tier.

The new 50% state density bonus would allow a housing development qualified for the highest supplemental density bonus tier (65%) to increase total density to 115%. Therefore, the current supplemental density bonus has the potential to increase the number of residential units in the Downtown area and citywide cumulative residential development beyond what was previously possible. Adjusting the three supplemental density bonus tiers downwards to 10%, 30%, and 50% will maintain the current top end density bonus at 60%, 80% and 100% and thus avoid this impact. The other provisions of the supplemental density bonus (eligibility points) will adjust to complement this change.

FISCAL IMPACT

Adoption of the Ordinance would not have a fiscal impact on the General Fund. The direct cost of Ordinance administration will continue to be covered by existing development review fees. The incentives and concessions associated with the proposed Ordinance, as well as the supplemental density for residential projects within the Specific Plan areas may stimulate new development which may result in an increase in General Fund revenues.

ENVIRONMENTAL IMPACT

On January 8, 2019 the City adopted a Negative Declaration for the current Density Bonus Ordinance. Pursuant to CEQA Guidelines Section 15162, the proposed Density Bonus Ordinance amendment will not require subsequent environmental review for the

following reasons:

The amendments to the State Density Bonus provision of the Ordinance are required to comply with the new State Density Bonus Law, as amended by AB 2345. The amendments to the Supplemental Density Bonus Ordinance provisions complement State Density Bonus Law and will not increase total density that may be achieved by housing development eligible for a supplemental density bonus. All 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.

There are no new significant environmental impacts associated with the Density Bonus Ordinance Amendments 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 previously been analyzed by the adopted Negative Declaration.

BOARD/COMMISSION/COMMITTEE REVIEW AND RECOMMENDATIONS

On August 12, 2021, the Planning Commission provided a recommendation (Attachment 4) that the Council adopt the proposed ordinance 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.

NOTIFICATION

Consistent with Zoning Code Section 20-66.020(D), "Alternative to Mailing," a public hearing notice was posted at City Hall and was published in the Press Democrat on October 31, or before, because this Ordinance Amendment would impact properties Citywide.

ATTACHMENTS

- Attachment 1 – Proposed Zoning Code Chapter 20-31 (clean version)
- Attachment 2 – Proposed Zoning Code Text Amendment Chapter 20-31 (strikeout and underline format)
- Attachment 3 – Letter, California Department of Housing and Community Development, June 1, 2021
- Attachment 4 - Planning Commission Resolution dated August 12, 2021 (Resolution 12067)
- Ordinance
- Presentation

WEBSITE RESOURCES

- [State Density Bonuses and Other Incentives, Gov Code Section 65915](#)
- [AB 2345, Gonzales. Density bonuses](#), September 28, 2020

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