Planning Department
168 North Edwards Street
Post Office Drawer L
Independence, California 93526

Phone: (760) 878-0263
E-Mail: inyoplanning@inyocounty.us

AGENDA ITEM NO.: **8** (Public Hearing and Action)

PLANNING COMMISSION MEETING DATE: January 22, 2025

SUBJECT: Zone Text Amendment 2025-01/Density Bonus Overlay Amendment

EXECUTIVE SUMMARY

Inyo County's Density Bonus Overlay (DB Zone), Chapter 18.65, was last updated in March 2007. Since this last update the State of California has enacted significant changes to the State Density Bonus Law. The State's Density Bonus Law (SDBL) allows developers to build residential projects at greater densities than allowed under the County's General Plan land use designations if the projects include specific types of housing. Since Inyo County's DB Zone does not currently reflect the changes made to the SDBL, Planning Department staff has drafted an ordinance that will update the provisions of the County's DB Zone to reflect existing and future SDBL.

PROJECT INFORMATION

Supervisory District:	Countywide
Project Applicant:	Inyo County
Property Owner:	Multiple/Countywide
Site Address/	Multiple/Countywide
Community:	Multiple/Countywide
A.P.N.	Multiple/Countywide
General Plan:	Multiple/Countywide
Zoning:	Multiple/Countywide

Recommended Actions:

1. Conduct a public hearing regarding Zone Text Amendment 2025-01/Density Bonus Overlay Amendment and,

2. Adopt a Resolution recommending that the Board of Supervisors approve Zone Text Amendment 2025-01/Density Bonus Overlay Amendment and certify that it is Exempt from CEQA.

Project Planner: Danielle Visuaño, Senior Planner

BACKGROUND

The SDBL, Government Code Section 65915, et. seq., allows developers to increase affordable housing above the allowable limits of the County's General Plan or Zoning Ordinance. It offers advantages by providing up to a 50% density increase on qualifying housing and a potential 80% bonus for 100% affordable housing. It includes incentives/concessions and waivers in development standards in exchange for providing on-site affordable housing.

The SDBL was originally enacted in 1979. The County's DB Zone was originally adopted in 2004 and last updated in March 2007.

The County is required to adopt and implement a density bonus ordinance under Government Code Section 65915,et., seq. The County is also required to update the current 2007 DB Zone pursuant to the Housing and Community Development approved Inyo County 6th Cycle Housing Element. The proposed ordinance is to bring the County's DB Zone into compliance with the SDBL and the approved 6th Cycle Housing Element.

STAFF ANALYSIS

Since the 2007 update of the County's DB Zone the State has made several changes. In staff's research there have been several bills approved since 2007 that have directed and indirect changes. These changes include, but are not limited to:

- Increase in the applicable housing that could fall under the SDBL (low income student housing, transitional foster youth, disabled veterans and homeless)
- Increases in available density bonus to 50% and a possibility for 80%
- Reduced parking ratios with the possibility of this ratio being zero
- The reduction in incentive/concession requirements
- Increased options for acquiring concessions
- Increased requirements for the units that are for sale

In review of the current DB Zone it has been determined that there are significant required provisions missing from the DB Zone and there is no incorporation by reference of the SDBL to

address these missing provisions. These nonexistent, but required provisions, are briefly detailed as follows:

- Housing for transitional foster youth, disabled veterans, homeless and students with low income
- For the donation of land, permits and approvals, other than building permits, need to be received no later than the approval of the final map, parcel map or residential development application
- The operation period of a child care facility
- Parking ratio requirements are not required near a major transit stop
- Concession/Incentives for housing for students, within a major transit stop, and for sale units

In staff's review of the current DB zone ordinance, it has also been determined the DB Zone directly conflicts with the SDBL in the following manners:

- Density Bonus
    - For developments providing very low income the State Law maximum is 50% and the DB Zone maximum is only 35%
    - For developments providing low income the State Law maximum is 50% and the DB Zone maximum is only 35%
    - For developments providing moderate income the State Law maximum is 50% and the DB Zone lists for only 35%

- Density Bonus Concessions – Generally
    - State Law provides two concessions for housing developments that include at least 17% for lower income households and the DB Zone requires it at a higher percentage of 20%.
    - State Law provides three concessions for housing developments that include at least 24% for lower income households and the DB Zone requires it at a higher percentage of 30%.

Additionally, the DB Zone provides some definitions that are expressly defined as opposed to the SDBL which uses references to other state code sections for some definitions. The SDBL's referenced state code definitions may at times be updated or amended and with the DB Zone's express definitions with no reference to other relevant code sections there could be potential of the DB Zone conflicting with the SDBL.

Further, there is an assumption the SDBL will likely be modified in the future by the State Legislature.

Given all the above discussions, staff is proposing to adopt the SDBL by reference to avoid current and future conflicts and missing information. Staff is also recommending, as required by the SDBL, the proposed ordinance also contain the process for application and associated application review timeline. If in the future any of the proposed ordinance conflicts with the SDBL the SDBL will supersede by reference.

RECOMMENDATIONS

Staff recommends adoption of the attached Resolution recommending the Board of Supervisors consider ZTA 2025-01, make certain findings, and adopt the proposed ordinance amending Chapter 18.65 to the Inyo County Code.

Recommended Findings

1. The proposed ordinance is exempt by the Common Sense Rule 15061(b) (3) that states that CEQA applies only to projects which have the potential for causing a significant effect on the environment; and, the provisions of the California Environmental Quality Act have been satisfied.
   1.
   [Evidence: Pursuant to Government Code section 15061(b)(3) that states CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. This project is a proposal to amend parts of the County Code to comply with current State Density Bonus Law, the requirements set forth by the California Department of Housing and Community Development approved County's 6th cycle Housing Element Update, and does not add residential densities or uses that have not previously been evaluated under CEQA or are currently not allowed by the zoning code.]

   2. Based on substantial evidence in the record, the proposed Zoning Ordinance Amendment is consistent with the Goals and Policies of the Inyo County General Plan.
   [Evidence: The proposed amendment to the DB Zone, Chapter 18.65, is consistent with the goals and policies of the Inyo County General Plan, which encourages the provision of affordable housing within the County. The specific General Plan goals and policies addressing the County's commitment to making affordable housing available to County residents are as follows;
      - *Goal 3.0: Encourage the adequate provision of housing by location, type of unit and price to meet the existing and future needs of Inyo County residents.*
      - *Policy 3.2 – High Density Housing: The County shall encourage the development of higher density residential development within close proximity to services, jobs, transit, recreation, and neighborhood shopping areas.*
      - *Goal 5.0: Remove governmental constraints on housing development.*
      - *Policy 5.1 – Compliance with new State Regulations: Program 5.1.1 – The County shall update its zoning code to properly address new State laws regarding Density Bonus … pursuant to AB 2162.*
      - *Policy 5.2: Expedite Permit Processing and Project Review: The County shall continue to expedite project review and facilitate timely building permit and development plan processing for residential developments, especially those with an affordable housing component or density bonus proposal.*

3. Based on substantial evidence in the record, the proposed zoning ordinance to amend Chapter 18.65 to the Inyo County Code is consistent with Title 18 (Zoning Ordinance) of the Inyo County Code.
   [Evidence: ZTA 2025-01 is being proposed to implement and bring the Inyo County Code into compliance with the State's Density Bonus Law.]

ATTACHMENTS

- State Density Bonus Law
- Current Ordinance
- Resolution
- Draft proposed ordinance

GOVERNMENT CODE - GOV

TITLE 7. PLANNING AND LAND USE [65000 - 66499.58] *(Heading of Title 7 amended by Stats. 1974, Ch. 1536.)*

DIVISION 1. PLANNING AND ZONING [65000 - 66342] *(Heading of Division 1 added by Stats. 1974, Ch. 1536.)*

CHAPTER 4.3. Density Bonuses and Other Incentives [65915 - 65918] *(Chapter 4.3 added by Stats. 1979, Ch. 1207.)*

65915. (a) (1) 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 comply with this section. A city, county, or city and county shall adopt an ordinance that specifies how compliance with this section will be implemented. Except as otherwise provided in subdivision (s), failure to adopt an ordinance shall not relieve a city, county, or city and county from complying with this section.

(2) A local government shall not condition the submission, review, or approval of an application pursuant to this chapter on the preparation of an additional report or study that is not otherwise required by state law, including this section. This subdivision does not prohibit a local government from requiring an applicant to provide reasonable documentation to establish eligibility for a requested density bonus, as described in subdivision (b), and parking ratios, as described in subdivision (p).

(3) In order to provide for the expeditious processing of a density bonus application, the local government shall do all of the following:

(A) Adopt procedures and timelines for processing a density bonus application.

(B) Provide a list of all documents and information required to be submitted with the density bonus application in order for the density bonus application to be deemed complete. This list shall be consistent with this chapter.

(C) Notify the applicant for a density bonus whether the application is complete in a manner consistent with the timelines specified in Section 65943.

(D) (i) If the local government notifies the applicant that the application is deemed complete pursuant to subparagraph (C), provide the applicant with a determination as to the following matters:

(I) The amount of density bonus, calculated pursuant to subdivision (f), for which the applicant is eligible.

(II) If the applicant requests a parking ratio pursuant to subdivision (p), the parking ratio for which the applicant is eligible.

(III) If the applicant requests incentives or concessions pursuant to subdivision (d) or waivers or reductions of development standards pursuant to subdivision (e), whether the applicant has provided adequate information for the local government to make a determination as to those incentives, concessions, waivers, or reductions of development standards.

(ii) Any determination required by this subparagraph shall be based on the development project at the time the application is deemed complete. The local government shall adjust the amount of density bonus and parking ratios awarded pursuant to this section based on any changes to the project during the course of development.

(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, if requested by the applicant and consistent with the applicable requirements of this section, incentives or concessions, as described in subdivision (d), waivers or reductions of development standards, as described in subdivision (e), and parking ratios, as described in subdivision (p), if 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, including a shared housing building development, for rental or sale to 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, including a shared housing building development, for rental or sale to 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 a mobilehome park that limits residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the Civil Code. For purposes of this subparagraph, "development" includes a shared housing building development and a residential care facility for the elderly, as defined in Section 1569.2 of the Health and Safety Code.

(D) Ten percent of the total dwelling units of a housing development are sold to 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.

(E) Ten percent of the total units of a housing development for transitional foster youth, as defined in Section 66025.9 of the Education Code, disabled veterans, as defined in Section 18541, or homeless persons, as defined in the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11301 et seq.). The units described in this subparagraph are subject to a recorded affordability restriction of 55 years and shall be provided at the same affordability level as very low income units.

(F) (i) Twenty percent of the total units for lower income students in a student housing development that meets the following requirements:

(I) All units in the student housing development shall be used exclusively for undergraduate, graduate, or professional students enrolled currently or in the past six months in at least six units at an institution of higher education accredited by the Western Association of Schools and Colleges or the Accrediting Commission for Community and Junior Colleges. In order to be eligible under this subclause, the developer shall, as a condition of receiving a certificate of occupancy, provide evidence to the city, county, or city and county that the developer has done any one of the following:

(ia) Entered into an operating agreement or master lease with one or more institutions of higher education for the institution or institutions to occupy all units of the student housing development with students from that institution or institutions. An operating agreement or master lease entered into pursuant to this subclause is not violated or breached if, in any subsequent year, there are insufficient students enrolled in an institution of higher education to fill all units in the student housing development.

(ib) Established a system for confirming its renters' status as students to ensure that all units of the student housing development are occupied with students from an institution of higher education.

(II) The applicable units in the student housing development for lower income students shall be used for and occupied by lower income students.

(III) The rent provided in the applicable units of the development for lower income students shall be calculated at 30 percent of 65 percent of the area median income for a single-room occupancy unit type.

(IV) The development shall provide priority for the applicable affordable units for lower income students experiencing homelessness. A homeless service provider, as defined in paragraph (3) of subdivision (e) of Section 103577 of the Health and Safety Code, or institution of higher education that has knowledge of a person's homeless status may verify a person's status as homeless for purposes of this subclause.

(V) The student housing development is not located on a site that pursuant to paragraph (3) of subdivision (c) would require replacement units for projects with greater than a 35 percent density bonus.

(ii) For purposes of calculating a density bonus granted pursuant to this subparagraph, the term "unit" as used in this section means one rental bed and its pro rata share of associated common area facilities. The units described in this subparagraph are subject to a recorded affordability restriction of 55 years, which shall not tie any rental bed reserved for lower income students to a specific bedroom. Notwithstanding any other law, an affordability restriction provision, state or county law or policy, or property management policy shall not prevent a lower income student from sharing a room or unit with a nonlower income student. Any attempted waiver of the requirements of this clause is void as against public policy.

(G) One hundred percent of all units in the development, including total units and density bonus units, but exclusive of a manager's unit or units, are for lower income households, as defined by Section 50079.5 of the Health and Safety Code, except that up to 20 percent of the units in the development, including total units and density bonus units, may be for moderate-income households, as defined in Section 50053 of the Health and Safety Code. For purposes of this subparagraph, "development" includes a shared housing building development.

(2) For purposes of calculating the amount of the density bonus pursuant to subdivision (f), an 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), (D), (E), (F), or (G) of paragraph (1).

(c) (1) (A) An applicant shall agree to, and the city, county, or city and county shall ensure, the continued affordability of all very low and low-income rental units that qualified the applicant for the award of the density bonus for 55 years or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program.

(B) (i) Except as otherwise provided in clause (ii), 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.

(ii) For housing developments meeting the criteria of subparagraph (G) of paragraph (1) of subdivision (b), rents for all units in the development, including both base density and density bonus units, shall be as follows:

(I) The rent for at least 20 percent of the units in the development shall be set at an affordable rent, as defined in Section 50053 of the Health and Safety Code.

(II) The rent for the remaining units in the development shall be set at an amount consistent with the maximum rent levels for lower income households, as those rents and incomes are determined by the California Tax Credit Allocation Committee.

(2) (A) An applicant shall agree to ensure, and the city, county, or city and county shall ensure, that a for-sale unit that qualified the applicant for the award of the density bonus meets one of the following conditions:

(i) The unit is initially sold to and occupied by a person or family of very low, low, or moderate income, as required, and it is offered at an affordable housing cost, as that cost is defined in Section 50052.5 of the Health and Safety Code and is subject to an equity sharing agreement.

(ii) If the unit is not purchased by an income-qualified person or family within 180 days after the issuance of the certificate of occupancy, the unit is purchased by a qualified nonprofit housing corporation that meets all of the following requirements pursuant to a recorded contract that satisfies all of the requirements specified in paragraph (10) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code:

(I) The nonprofit corporation has a determination letter from the Internal Revenue Service affirming its tax-exempt status pursuant to Section 501(c)(3) of the Internal Revenue Code and is not a private foundation as that term is defined in Section 509 of the Internal Revenue Code.

(II) The nonprofit corporation is based in California.

(III) All of the board members of the nonprofit corporation have their primary residence in California.

(IV) The primary activity of the nonprofit corporation is the development and preservation of affordable home ownership housing in California that incorporates within their contracts for initial purchase a repurchase option that requires a subsequent purchaser of the property that desires to resell or convey the property to offer the qualified nonprofit corporation the right to repurchase the property prior to selling or conveying that property to any other purchaser pursuant to an equity sharing agreement or affordability restrictions on the sale and conveyance of the property that ensure that the property will be

preserved for lower income housing for at least 45 years for owner-occupied housing units and will be sold or resold only to persons or families of very low, low, or moderate income, as defined in Section 50052.5 of the Health and Safety Code.

(B) For purposes of this paragraph, a "qualified nonprofit housing corporation" is a nonprofit housing corporation organized pursuant to Section 501(c)(3) of the Internal Revenue Code that has received a welfare exemption under Section 214.15 of the Revenue and Taxation Code for properties intended to be sold to low-income families who participate in a special no-interest loan program.

(C) The local government shall enforce an equity sharing agreement required pursuant to clause (i) or (ii) of subparagraph (A), unless it is in conflict with the requirements of another public funding source or law or may defer to the recapture provisions of the public funding source. The following apply to the equity sharing agreement:

(i) Upon resale, the seller of the unit shall retain the value of any improvements, the downpayment, and the seller's proportionate share of appreciation.

(ii) Except as provided in clause (v), the local government shall recapture any initial subsidy, as defined in clause (iii), and its proportionate share of appreciation, as defined in clause (iv), 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 homeownership.

(iii) 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.

(iv) 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.

(v) If the unit is purchased or developed by a qualified nonprofit housing corporation pursuant to clause (ii) of subparagraph (A) the local government may enter into a contract with the qualified nonprofit housing corporation under which the qualified nonprofit housing corporation would recapture any initial subsidy and its proportionate share of appreciation if the qualified nonprofit housing corporation is required to use 100 percent of the proceeds to promote homeownership for lower income households as defined by Section 50079.5 of the Health and Safety Code within the jurisdiction of the local government.

(3) (A) Except as provided in subclause (V) of clause (i) of subparagraph (F) of paragraph (1) of subdivision (b), an applicant shall be ineligible for a density bonus or any other incentives or concessions under this section if the housing development is proposed on any property that includes a parcel or parcels on which rental dwelling units are located or, if the dwelling units have been vacated or demolished in the five-year period preceding the application, have been subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of lower or very low income; subject to any other form of rent or price control through a public entity's valid exercise of its police power; or occupied by lower or very low income households, unless the proposed housing development replaces those units, and either of the following applies:

(i) The proposed housing development, inclusive of the units replaced pursuant to this paragraph, contains affordable units at the percentages set forth in subdivision (b).

(ii) Each unit in the development, exclusive of a manager's unit or units, is affordable to, and occupied by, either a lower or very low income household.

(B) For the purposes of this paragraph, "replace" shall mean either of the following:

(i) If any dwelling units described in subparagraph (A) are occupied on the date of application, the proposed housing development shall provide at least the same number of units of equivalent size to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those households in occupancy. If the income category of the household in occupancy is not known, it shall be rebuttably presumed that lower income renter households occupied these units in the same proportion of lower income renter households to all renter households within the jurisdiction, as determined by the most recently available data from the United States Department of

Housing and Urban Development's Comprehensive Housing Affordability Strategy database. For unoccupied dwelling units described in subparagraph (A) in a development with occupied units, the proposed housing development shall provide units of equivalent size to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as the last household in occupancy. If the income category of the last household in occupancy is not known, it shall be rebuttably presumed that lower income renter households occupied these units in the same proportion of lower income renter households to all renter households within the jurisdiction, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database. All replacement calculations resulting in fractional units shall be rounded up to the next whole number. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years. If the proposed development is for-sale units, the units replaced shall be subject to paragraph (2).

(ii) If all dwelling units described in subparagraph (A) have been vacated or demolished within the five-year period preceding the application, the proposed housing development shall provide at least the same number of units of equivalent size as existed at the highpoint of those units in the five-year period preceding the application to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those persons and families in occupancy at that time, if known. If the incomes of the persons and families in occupancy at the highpoint is not known, it shall be rebuttably presumed that low-income and very low income renter households occupied these units in the same proportion of low-income and very low income renter households to all renter households within the jurisdiction, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database. All replacement calculations resulting in fractional units shall be rounded up to the next whole number. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years. If the proposed development is for-sale units, the units replaced shall be subject to paragraph (2).

(C) Notwithstanding subparagraph (B), for any dwelling unit described in subparagraph (A) that is or was, within the five-year period preceding the application, subject to a form of rent or price control through a local government's valid exercise of its police power and that is or was occupied by persons or families above lower income, the city, county, or city and county may do either of the following:

(i) Require that the replacement units be made available at affordable rent or affordable housing cost to, and occupied by, low-income persons or families. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years. If the proposed development is for-sale units, the units replaced shall be subject to paragraph (2).

(ii) Require that the units be replaced in compliance with the jurisdiction's rent or price control ordinance, provided that each unit described in subparagraph (A) is replaced. Unless otherwise required by the jurisdiction's rent or price control ordinance, these units shall not be subject to a recorded affordability restriction.

(D) For purposes of this paragraph, "equivalent size" means that the replacement units contain at least the same total number of bedrooms as the units being replaced.

(E) Subparagraph (A) does not apply to an applicant seeking a density bonus for a proposed housing development if the applicant's application was submitted to, or processed by, a city, county, or city and county before January 1, 2015.

(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 does not result in identifiable and actual cost reductions, consistent with subdivision (k), 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 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-income 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 development in which the units are for sale.

(B) Two incentives or concessions for projects that include at least 17 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 development in which the units are for sale.

(C) Three incentives or concessions for projects that include at least 24 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 development in which the units are for sale.

(D) Five incentives or concessions for a project meeting the criteria of subparagraph (G) of paragraph (1) of subdivision (b). If the project is located within one-half mile of a major transit stop or is located in a very low vehicle travel area in a designated county, the applicant shall also receive a height increase of up to three additional stories, or 33 feet.

(E) One incentive or concession for projects that include at least 20 percent of the total units for lower income students in a student housing development. If a project includes at least 23 percent of the total units for lower income students in a student housing project, the applicant shall instead receive two incentives or concessions.

(F) Four incentives or concessions for projects that include at least 16 percent of the units for very low income households or at least 45 percent for persons and families of moderate income in a development in which the units are for sale.

(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. This subdivision shall not 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 or safety, and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact. This subdivision shall not 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.

(4) The city, county, or city and county shall bear the burden of proof for the denial of a requested concession or incentive.

(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. Subject to paragraph (3), 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. This subdivision shall not 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 or safety, and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact. This subdivision shall not 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).

(3) A housing development that receives a waiver from any maximum controls on density pursuant to clause (ii) of subparagraph (D) of paragraph (3) of subdivision (f) shall only be eligible for a waiver or reduction of development standards as provided in subparagraph (D) of paragraph (2) of subdivision (d) and clause (ii) of subparagraph (D) of paragraph (3) of subdivision (f), unless the city, county, or city and county agrees to additional waivers or reductions of development standards.

(f) For the purposes of this chapter, "density bonus" means a density increase over the otherwise maximum allowable gross residential density, as of the date of application by the applicant to the city, county, or city and county, or, if elected by the applicant, a lesser percentage of density increase, including, but not limited to, no increase in density. The amount of density increase 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
16	29
17	30.5
18	32
19	33.5
20	35
21	38.75
22	42.5
23	46.25
24	50

(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
12	38.75
13	42.5

14	46.25
15	50

(3) (A) For housing developments meeting the criteria of subparagraph (C) of paragraph (1) of subdivision (b), the density bonus shall be 20 percent of the number of senior housing units.

(B) For housing developments meeting the criteria of subparagraph (E) of paragraph (1) of subdivision (b), the density bonus shall be 20 percent of the number of the type of units giving rise to a density bonus under that subparagraph.

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

Percentage Lower Income Units	Percentage Density Bonus
20	35
21	38.75
22	42.5
23	46.25
24	50

(D) For housing developments meeting the criteria of subparagraph (G) of paragraph (1) of subdivision (b), the following shall apply:

(i) Except as otherwise provided in clauses (ii) and (iii), the density bonus shall be 80 percent of the number of units for lower income households.

(ii) If the housing development is located within one-half mile of a major transit stop, the city, county, or city and county shall not impose any maximum controls on density.

(iii) If the housing development is located in a very low vehicle travel area within a designated county, the city, county, or city and county shall not impose any maximum controls on density.

(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
41	38.75
42	42.5
43	46.25
44	50

(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 require, or 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 before 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 childcare 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 childcare facility.

(B) An additional concession or incentive that contributes significantly to the economic feasibility of the construction of the childcare 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 childcare 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 childcare 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 city and county shall not be required to provide a density bonus or concession for a childcare facility if it finds, based upon substantial evidence, that the community has adequate childcare facilities.

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

(i) "Housing development," as used in this section, means a development project for five or more residential units, including mixed-use developments. For the purposes of this section, "housing development" also includes a subdivision or common interest development, as defined in Section 4100 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) (1) The granting of a concession or incentive shall not require or be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, study, or other discretionary approval. For purposes of this subdivision, "study" does not include reasonable documentation to establish eligibility for the concession or incentive or to demonstrate that the incentive or concession meets the definition set forth in subdivision (k). This provision is declaratory of existing law.

(2) Except as provided in subdivisions (d) and (e), the granting of a density bonus shall not require or be interpreted to require the waiver of a local ordinance or provisions of a local ordinance unrelated to development standards.

(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 and actual cost reductions, 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).

(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 and actual cost reductions 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).

(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) This section does not supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code). Any density bonus, concessions, incentives, waivers or reductions of development standards, and parking ratios to which the applicant is entitled under this section shall be permitted in a manner that is consistent with this section and 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) "Designated county" includes the Counties of Alameda, Contra Costa, Los Angeles, Marin, Napa, Orange, Riverside, Sacramento, San Bernardino, San Diego, San Mateo, Santa Barbara, Santa Clara, Solano, Sonoma, and Ventura, and the City and County of San Francisco.

(2) "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, a minimum lot area per unit 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 that is adopted by the local government or that is enacted by the local government's electorate exercising its local initiative or referendum power, whether that power is derived from the California Constitution, statute, or the charter or ordinances of the local government.

(3) "Located within one-half mile of a major transit stop" means that 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, 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.

(4) "Lower income student" means a student who has a household income and asset level that does not exceed the level for Cal Grant A or Cal Grant B award recipients as set forth in subdivision (k) of Section 69432.7 of the Education Code. The eligibility of a student to occupy a unit for lower income students under this section shall be verified by an affidavit, award letter, or letter of eligibility provided by the institution of higher education in which the student is enrolled or by the California Student Aid Commission that the student receives or is eligible for financial aid, including an institutional grant or fee waiver from the college or university, the California Student Aid Commission, or the federal government.

(5) "Major transit stop" has the same meaning as defined in subdivision (b) of Section 21155 of the Public Resources Code.

(6) "Maximum allowable residential density" or "base density" means the greatest number of units allowed under the zoning ordinance, specific plan, or land use element of the general plan, or, if a range of density is permitted, means the greatest number of units allowed by the specific zoning range, specific plan, or land use element of the general plan applicable to the project. Density shall be determined using dwelling units per acre. However, if the applicable zoning ordinance, specific plan, or land use element of the general plan does not provide a dwelling-units-per-acre standard for density, then the local agency shall calculate the number of units by:

(A) Estimating the realistic development capacity of the site based on the objective development standards applicable to the project, including, but not limited to, floor area ratio, site coverage, maximum building height and number of stories, building setbacks and stepbacks, public and private open-space requirements, minimum percentage or square footage of any nonresidential component, and parking requirements, unless not required for the base project. Parking requirements shall include considerations regarding number of spaces, location, design, type, and circulation. A developer may provide a base density study and the local agency shall accept it, provided that it includes all applicable objective development standards.

(B) Maintaining the same average unit size and other project details relevant to the base density study, excepting those that may be modified by waiver or concession to accommodate the bonus units, in the proposed project as in the study.

(7) (A) (i) "Shared housing building" means a residential or mixed-use structure, with five or more shared housing units and one or more common kitchens and dining areas designed for permanent residence of more than 30 days by its tenants. The kitchens and dining areas within the shared housing building shall be able to

adequately accommodate all residents. If a local ordinance further restricts the attributes of a shared housing building beyond the requirements established in this section, the local definition shall apply to the extent that it does not conflict with the requirements of this section.

(ii) A "shared housing building" may include other dwelling units that are not shared housing units, provided that those dwelling units do not occupy more than 25 percent of the floor area of the shared housing building. A shared housing building may include 100 percent shared housing units.

(B) (i) "Shared housing unit" means one or more habitable rooms, not within another dwelling unit, that includes a bathroom, sink, refrigerator, and microwave, is used for permanent residence, that meets the "minimum room area" specified in Section R304 of the California Residential Code (Part 2.5 of Title 24 of the California Code of Regulations), and complies with the definition of "guestroom" in Section R202 of the California Residential Code. If a local ordinance further restricts the attributes of a shared housing building beyond the requirements established in this section, the local definition shall apply to the extent that it does not conflict with the requirements of this section.

(ii) "Shared housing unit" for purposes of a residential care facility for the elderly, as defined in Section 1569.2 of the Health and Safety Code, includes a unit without an individual kitchen where a unit may be shared by unrelated persons, and a unit where a room that may be shared by unrelated persons meets the "minimum room area" requirements of clause (i).

(8) "Student housing development" means a development that contains bedrooms containing two or more bedspaces that have a shared or private bathroom, access to a shared or private living room and laundry facilities, and access to a shared or private kitchen.

(9) (A) "Total units" or "total dwelling units" means a calculation of the number of units that:

(i) Excludes a unit added by a density bonus awarded pursuant to this section or any local law granting a greater density bonus.

(ii) Includes a unit designated to satisfy an inclusionary zoning requirement of a city, county, or city and county.

(B) For purposes of calculating a density bonus granted pursuant to this section for a shared housing building, "unit" means one shared housing unit and its pro rata share of associated common area facilities.

(10) "Very low vehicle travel area" means an urbanized area, as designated by the United States Census Bureau, where the existing residential development generates vehicle miles traveled per capita that is below 85 percent of either regional vehicle miles traveled per capita or city vehicle miles traveled per capita. For purposes of this paragraph, "area" may include a travel analysis zone, hexagon, or grid. For the purposes of determining "regional vehicle miles traveled per capita" pursuant to this paragraph, a "region" is the entirety of incorporated and unincorporated areas governed by a multicounty or single-county metropolitan planning organization, or the entirety of the incorporated and unincorporated areas of an individual county that is not part of a metropolitan planning organization.

(p) (1) Except as provided in paragraphs (2), (3), and (4), upon the request of the developer, a city, county, or city and county shall not require a vehicular parking ratio, inclusive of parking for persons with a disability and guests, of a development meeting the criteria of subdivisions (b) and (c), that exceeds the following ratios:

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

(B) Two to three bedrooms: one and one-half onsite parking spaces.

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

(D) One bedspace in a student housing development: zero parking spaces.

(2) (A) Notwithstanding paragraph (1), if a development includes at least 20 percent low-income units for housing developments meeting the criteria of subparagraph (A) of paragraph (1) of subdivision (b) or at least 11 percent very low income units for housing developments meeting the criteria of subparagraph (B) of paragraph (1) of subdivision (b), is located within one-half mile of a major transit stop, and there is unobstructed access to the major transit stop from the development, then, upon the request of the developer, a city, county, or city and county shall not impose a vehicular parking ratio, inclusive of parking for persons with a disability and guests, that exceeds 0.5 spaces per unit. Notwithstanding paragraph (1), if a development includes at least 40 percent

moderate-income units for housing developments meeting the criteria of subparagraph (D) of paragraph (1) of subdivision (b), is located within one-half mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code, and the residents of the development have unobstructed access to the major transit stop from the development then, upon the request of the developer, a city, county, or city and county shall not impose a vehicular parking ratio, inclusive of parking for persons with a disability and guests, that exceeds 0.5 spaces per bedroom.

(B) For purposes of this subdivision, "unobstructed access to the major transit stop" means a resident is able to access the major transit stop without encountering natural or constructed impediments. For purposes of this subparagraph, "natural or constructed impediments" includes, but is not limited to, freeways, rivers, mountains, and bodies of water, but does not include residential structures, shopping centers, parking lots, or rails used for transit.

(3) Notwithstanding paragraph (1), if a development meets the criteria of subparagraph (G) of paragraph (1) of subdivision (b), then, upon the request of the developer, a city, county, or city and county shall not impose vehicular parking standards if the development meets any of the following criteria:

(A) The development is located within one-half mile of a major transit stop and there is unobstructed access to the major transit stop from the development.

(B) The development is a for-rent housing development for individuals who are 55 years of age or older that complies with Sections 51.2 and 51.3 of the Civil Code and the development has either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.

(C) The development is either a special needs housing development, as defined in Section 51312 of the Health and Safety Code, or a supportive housing development, as defined in Section 50675.14 of the Health and Safety Code. A development that is a special needs housing development shall have either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.

(4) 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.

(5) This subdivision shall apply to a development that meets the requirements of subdivisions (b) and (c), 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).

(6) This subdivision does not preclude a city, county, or city and county from reducing or eliminating a parking requirement for development projects of any type in any location.

(7) Notwithstanding paragraphs (2) and (3), if a city, county, city and county, or an independent consultant has conducted an areawide or jurisdictionwide parking study in the last seven years, then the city, county, or city and county may impose a higher vehicular parking ratio not to exceed the ratio described in paragraph (1), based upon substantial evidence found in the parking study, that includes, but is not limited to, an analysis of parking availability, differing levels of transit access, walkability access to transit services, the potential for shared parking, the effect of parking requirements on the cost of market-rate and subsidized developments, and the lower rates of car ownership for low-income and very low income individuals, including seniors and special needs individuals. The city, county, or city and county shall pay the costs of any new study. The city, county, or city and county shall make findings, based on a parking study completed in conformity with this paragraph, supporting the need for the higher parking ratio.

(8) A request 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).

(q) Each component of any density calculation, including base density and bonus density, resulting in fractional units shall be separately rounded up to the next whole number. The Legislature finds and declares that this provision is declaratory of existing law.

(r) This chapter shall be interpreted liberally in favor of producing the maximum number of total housing units.

(s) Notwithstanding any other law, if a city, including a charter city, county, or city and county has adopted an ordinance or a housing program, or both an ordinance and a housing program, that incentivizes the development of affordable housing that allows for density bonuses that exceed the density bonuses required by the version of this

section effective through December 31, 2020, that city, county, or city and county is not required to amend or otherwise update its ordinance or corresponding affordable housing incentive program to comply with the amendments made to this section by the act adding this subdivision, and is exempt from complying with the incentive and concession calculation amendments made to this section by the act adding this subdivision as set forth in subdivision (d), particularly subparagraphs (B) and (C) of paragraph (2) of that subdivision, and the amendments made to the density tables under subdivision (f).

(t) When an applicant proposes to construct a housing development that conforms to the requirements of subparagraph (A) or (B) of paragraph (1) of subdivision (b) that is a shared housing building, the city, county, or city and county shall not require any minimum unit size requirements or minimum bedroom requirements that are in conflict with paragraph (7) of subdivision (o).

(u) (1) The Legislature finds and declares that the intent behind the Density Bonus Law is to allow public entities to reduce or even eliminate subsidies for a particular project by allowing a developer to include more total units in a project than would otherwise be allowed by the local zoning ordinance in exchange for affordable units. It further reaffirms that the intent is to cover at least some of the financing gap of affordable housing with regulatory incentives, rather than additional public subsidy.

(2) It is therefore the intent of the Legislature to make modifications to the Density Bonus Law by the act adding this subdivision to further incentivize the construction of very low, low-, and moderate-income housing units. It is further the intent of the Legislature in making these modifications to the Density Bonus Law to ensure that any additional benefits conferred upon a developer are balanced with the receipt of a public benefit in the form of adequate levels of affordable housing. The Legislature further intends that these modifications will ensure that the Density Bonus Law creates incentives for the construction of more housing across all areas of the state.

(v) (1) Provided that the resulting housing development would not restrict more than 50 percent of the total units to moderate-income, lower income, or very low income households, a city, county, or city and county shall grant an additional density bonus calculated pursuant to paragraph (2) when an applicant proposes to construct a housing development that conforms to the requirements of paragraph (1) of subdivision (b), agrees to include additional rental or for-sale units affordable to very low income households or moderate income households, and meets any of the following requirements:

(A) The housing development conforms to the requirements of subparagraph (A) of paragraph (1) of subdivision (b) and provides 24 percent of the total units to lower income households.

(B) The housing development conforms to the requirements of subparagraph (B) of paragraph (1) of subdivision (b) and provides 15 percent of the total units to very low income households.

(C) The housing development conforms to the requirements of subparagraph (D) of paragraph (1) of subdivision (b) and provides 44 percent of the total units to moderate-income households.

(2) A city, county, or city and county shall grant an additional density bonus for a housing development that meets the requirements of paragraph (1), calculated as follows:

Percentage Very Low Income Units	Percentage Density Bonus
5	20
6	23.75
7	27.5
8	31.25
9	35
10	38.75

Percentage Moderate-Income Units	Percentage Density Bonus
5	20
6	22.5
7	25
8	27.5

9	30
10	32.5
11	35
12	38.75
13	42.5
14	46.25
15	50

(3) The increase required by paragraphs (1) and (2) shall be in addition to any increase in density granted by subdivision (b).

(4) The additional density bonus required under this subdivision shall be calculated using the number of units excluding any density bonus awarded by this section.

(Amended by Stats. 2024, Ch. 432, Sec. 1.5. (AB 3116) Effective January 1, 2025.)

65915.1. For purposes of Section 65915, affordable housing impact fees, including inclusionary zoning fees and in-lieu fees, shall not be imposed on a housing development's affordable units.

(Added by Stats. 2021, Ch. 346, Sec. 1. (AB 571) Effective January 1, 2022.)

65915.2. If permitted by local ordinance, nothing in Section 65915 shall be construed to prohibit a city, county, or city and county from requiring an affordability period longer than 55 years for any units that qualified the applicant for the award of the density bonus developed in compliance with a local ordinance that requires, as a condition of the development of residential units, that the development include a certain percentage of units that are affordable to, and occupied by, low-income, lower income, very low income, or extremely low income households and that will be financed without low-income housing tax credits.

(Added by Stats. 2021, Ch. 348, Sec. 1. (AB 634) Effective January 1, 2022.)

65915.3. (a) As used in this section, the following terms have the following meanings:

(1) "Housing development" has the same meaning as defined in subdivision (i) of Section 65915.

(2) "Monitoring fee" means a fee charged by a city, county, or city and county on a recurring basis to oversee and ensure the continued affordability of a housing development pursuant to either of the following:

(A) Section 65915.

(B) Any applicable local inclusionary housing ordinance.

(b) Except as provided in subdivision (d), a city, county, or city and county shall not charge a monitoring fee on a housing development if all of the following conditions are met:

(1) The housing development meets the criteria of subparagraph (G) of paragraph (1) of subdivision (b) of Section 65915.

(2) The applicant received a density bonus pursuant to Section 65915 for the housing development.

(3) The housing development is subject to a recorded regulatory agreement with the California Tax Credit Allocation Committee, the California Housing Finance Agency, or the Department of Housing and Community Development that requires compliance with subparagraph (G) of paragraph (1) of subdivision (b) of Section 65915.

(4) Prior to receiving a building permit, the applicant provides to the local government a fully executed Tax Credit Reservation Letter indicating that the applicant accepted the award.

(5) The applicant provides to the local government a copy of a recorded regulatory agreement with the California Tax Credit Allocation Committee, the California Housing Finance Agency, or the Department of Housing and

Community Development.

(6) The applicant agreed to provide to the local government the compliance monitoring document required pursuant to the California Tax Credit Allocation Committee, the California Housing Finance Agency, or the Department of Housing and Community Development regulations.

(c) Beginning on January 1, 2025, a housing development that is currently placed in service, is subject to a monitoring fee, and meets the requirements of subdivision (b) shall no longer be subject to that fee.

(d) Notwithstanding subdivisions (b) and (c), a city, county, or city and county may charge a monitoring fee on a housing development that meets the criteria of subparagraph (G) of paragraph (1) of subdivision (b) of Section 65915 if any of the following conditions are met:

(1) The applicant utilizes a local incentive program that results in the development of units with deeper affordability, including a higher number of affordable units than what is monitored for by the California Tax Allocation Committee, the California Housing Finance Agency, or the Department of Housing and Community Development.

(2) The applicant uses a local incentive program that results in the development of units that are affordable to and occupied by moderate income households.

(3) The applicant accepts a local funding source that results in the development of units with different affordability, measured through higher or lower area median income or through higher or lower rents, than what is monitored for by the California Tax Allocation Committee, the California Housing Finance Agency, or the Department of Housing and Community Development.

(4) The applicant accepts funding from a regional, state, or federal agency other than the California Tax Credit Allocation Committee, the California Debt Limit Allocation Committee, the California Housing Finance Agency, or the Department of Housing and Community Development that requires local monitoring activities that would not otherwise be conducted by the California Tax Allocation Committee, the Department of Housing and Community Development, or the public agency issuing the funding.

(e) A city, county, or city and county that is not collecting a monitoring fee pursuant to this section shall not have any obligation to monitor a housing development for compliance with Section 65915.

(Added by Stats. 2024, Ch. 273, Sec. 1. (AB 2430) Effective January 1, 2025.)

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.

(g) An applicant shall be ineligible for a density bonus or any other incentives or concessions under this section if the condominium project is proposed on any property that includes a parcel or parcels on which rental dwelling units are or, if the dwelling units have been vacated or demolished in the five-year period preceding the application, have been subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of lower or very low income; subject to any other form of rent or price control through a public entity's valid exercise of its police power; or occupied by lower or very low income households, unless the proposed condominium project replaces those units, as defined in subparagraph (B) of paragraph (3) of subdivision (c) of Section 65915, and either of the following applies:

(1) The proposed condominium project, inclusive of the units replaced pursuant to subparagraph (B) of paragraph (3) of subdivision (c) of Section 65915, contains affordable units at the percentages set forth in subdivision (a).

(2) Each unit in the development, exclusive of a manager's unit or units, is affordable to, and occupied by, either a lower or very low income household.

(h) Subdivision (g) does not apply to an applicant seeking a density bonus for a proposed housing development if their application was submitted to, or processed by, a city, county, or city and county before January 1, 2015.

(Amended by Stats. 2014, Ch. 682, Sec. 2. (AB 2222) Effective January 1, 2015.)

65915.7. (a) When an applicant for approval of a commercial development has entered into an agreement for partnered housing described in subdivision (c) to contribute affordable housing through a joint project or two separate projects encompassing affordable housing, the city, county, or city and county shall grant to the commercial developer a development bonus as prescribed in subdivision (b). Housing shall be constructed on the site of the commercial development or on a site that is all of the following:

(1) Within the boundaries of the local government.

(2) In close proximity to public amenities including schools and employment centers.

(3) Located within one-half mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code.

(b) The development bonus granted to the commercial developer shall mean incentives, mutually agreed upon by the developer and the jurisdiction, that may include, but are not limited to, any of the following:

(1) Up to a 20-percent increase in maximum allowable intensity in the General Plan.

(2) Up to a 20-percent increase in maximum allowable floor area ratio.

(3) Up to a 20-percent increase in maximum height requirements.

(4) Up to a 20-percent reduction in minimum parking requirements.

(5) Use of a limited-use/limited-application elevator for upper floor accessibility.

(6) An exception to a zoning ordinance or other land use regulation.

(c) For purposes of this section, the agreement for partnered housing shall be between the commercial developer and the housing developer, shall identify how the commercial developer will contribute affordable housing, and shall be approved by the city, county, or city and county.

(d) For purposes of this section, affordable housing may be contributed by the commercial developer in one of the following manners:

(1) The commercial developer may directly build the units.

(2) The commercial developer may donate a portion of the site or property elsewhere to the affordable housing developer for use as a site for affordable housing.

(3) The commercial developer may make a cash payment to the affordable housing developer that shall be used towards the costs of constructing the affordable housing project.

(e) For purposes of this section, subparagraph (A) of paragraph (3) of subdivision (c) of Section 65915 shall apply.

(f) Nothing in this section shall preclude any additional allowances or incentives offered to developers by local governments pursuant to law or regulation.

(g) If the developer of the affordable units does not commence with construction of those units in accordance with timelines ascribed by the agreement described in subdivision (c), the local government may withhold certificates of occupancy for the commercial development under construction until the developer has completed construction of the affordable units.

(h) In order to qualify for a development bonus under this section, a commercial developer shall partner with a housing developer that provides at least 30 percent of the total units for low-income households or at least 15 percent of the total units for very low-income households.

(i) Nothing in this section shall preclude an affordable housing developer from seeking a density bonus, concessions or incentives, waivers or reductions of development standards, or parking ratios under Section 65915.

(j) A development bonus pursuant to this section shall not include a reduction or waiver of the requirements within an ordinance that requires the payment of a fee by a commercial developer for the promotion or provision of affordable housing.

(k) A city or county shall submit to the Department of Housing and Community Development, as part of the annual report required by Section 65400, information describing a commercial development bonus approved pursuant to this section, including the terms of the agreements between the commercial developer and the affordable housing developer, and the developers and the local jurisdiction, and the number of affordable units constructed as part of the agreements.

(l) For purposes of this section, "partner" means formation of a partnership, limited liability company, corporation, or other entity recognized by the state in which the commercial development applicant and the affordable housing developer are each partners, members, shareholders or other participants, or a contract or agreement between a commercial development applicant and affordable housing developer for the development of both the commercial and the affordable housing properties.

(m) This section shall remain in effect only until January 1, 2028, and as of that date is repealed.

(Added by Stats. 2022, Ch. 637, Sec. 1. (AB 1551) Effective January 1, 2023. Repealed as of January 1, 2028, by its own provisions.)

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.

(Added by Stats. 1979, Ch. 1207.)

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.

(Amended by Stats. 2001, Ch. 115, Sec. 14. Effective January 1, 2002.)

65917.2. (a) As used in this section, the following terms shall have the following meanings:

(1) "Eligible housing development" means a development that satisfies all of the following criteria:

(A) The development is a multifamily housing development that contains five or more residential units, exclusive of any other floor area ratio bonus or incentive or concession awarded pursuant to this chapter.

(B) The development is located within one of the following:

(i) An urban infill site that is within a transit priority area.

(ii) One-half mile of a major transit stop.

(C) The site of the development is zoned to allow residential use or mixed-use with a minimum planned density of at least 20 dwelling units per acre and does not include any land zoned for low density residential use or for exclusive nonresidential use.

(D) The applicant and the development satisfy the replacement requirements specified in subdivision (c) of Section 65915.

(E) The development includes at least 20 percent of the units, excluding any additional units allowed under a floor area ratio bonus or other incentives or concessions provided pursuant to this chapter, with an affordable housing cost or affordable rent to, and occupied by, persons with a household income equal to or less than 50 percent of the area median income, as determined pursuant to Section 50093 of the Health and Safety Code, and subject to an affordability restriction for a minimum of 55 years.

(F) The development complies with the height requirements applicable to the underlying zone. A development shall not be eligible to use a floor area ratio bonus or other incentives or concessions provided pursuant to this chapter to relieve the development from a maximum height limitation.

(2) "Floor area ratio" means the ratio of gross building area of the eligible housing development, excluding structured parking areas, proposed for the project divided by the net lot area. For purposes of this paragraph, "gross building area" means the sum of all finished areas of all floors of a building included within the outside faces of its exterior walls.

(3) "Floor area ratio bonus" means an allowance for an eligible housing development to utilize a floor area ratio over the otherwise maximum allowable density permitted under the applicable zoning ordinance and land use elements of the general plan of a city or county, calculated pursuant to paragraph (2) of subdivision (b).

(4) "Major transit stop" has the same meaning as defined in Section 21155 of the Public Resources Code.

(5) "Transit priority area" has the same meaning as defined in Section 21099 of the Public Resources Code.

(b) (1) A city council, including a charter city council or the board of supervisors of a city and county, or county board of supervisors may establish a procedure by ordinance to grant a developer of an eligible housing development, upon the request of the developer, a floor area ratio bonus, calculated as provided in paragraph (2), in lieu of a density bonus awarded on the basis of dwelling units per acre.

(2) In calculating the floor area ratio bonus pursuant to this section, the allowable gross residential floor area in square feet shall be the product of all of the following amounts:

(A) The allowable residential base density in dwelling units per acre.

(B) The site area in square feet, divided by 43,560.

(C) 2,250.

(c) The city council or county board of supervisors shall not impose any parking requirement on an eligible housing development in excess of 0.1 parking spaces per unit that is affordable to persons and families with a household income equal to or less than 120 percent of the area median income and 0.5 parking spaces per unit that is offered at market rate.

(d) A city or county that adopts a floor area ratio bonus ordinance pursuant to this section shall allow an applicant seeking to develop an eligible residential development to calculate impact fees based on square feet, instead of on a per unit basis.

(e) In the case of an eligible housing development that is zoned for mixed-use purposes, any floor area ratio requirement under a zoning ordinance or land use element of the general plan of the city or county applicable to the nonresidential portion of the eligible housing development shall continue to apply notwithstanding the award of a floor area ratio bonus in accordance with this section.

(f) An applicant for a floor area ratio bonus pursuant to this section may also submit to the city, county, or city and county a proposal for specific incentives or concessions pursuant to subdivision (d) of Section 65915.

(g) (1) This section shall not be interpreted to do either of the following:

(A) Supersede or preempt any other section within this chapter.

(B) Prohibit a city, county, or city and county from providing a floor area ratio bonus under terms that are different from those set forth in this section.

(2) The adoption of an ordinance pursuant to this section shall not be interpreted to relieve a city, county, or city and county from complying with Section 65915.

(Added by Stats. 2018, Ch. 915, Sec. 1. (AB 2372) Effective January 1, 2019.)

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.

(Amended by Stats. 2008, Ch. 179, Sec. 112. Effective January 1, 2009.)

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

(Added by Stats. 1979, Ch. 1207.)

Title 18. Zoning

Chapter 18.65. DB DISTRICTS—DENSITY BONUS OVERLAY

§ 18.65.010. Purpose and intent.

A. The density bonus or "DB" districts are established as overlay zones to provide for increases in housing densities to provide affordable and adequate housing for all residents of the county. The DB district consists of those regulations set forth in the underlying zoning district, except where modified in this chapter.

B. The intent and purpose of this chapter i s to allow the county to work together with housing agencies and the private sector and offer appropriate incentives to encourage development of additional affordable housing as provided by Section 65915 et seq. of the **Government Code**.

C. Nothing in this chapter is intended to limit the authority of the county to exercise its police powers to protect the public health, safety and welfare of its citizens through any of the provisions of the county subdivision and zoning ordinances (Titles **16** and **18** of this code), except as specifically required by Sections 65589.5 and 65915 of the **Government Code**.

(Ord. 1127 § 4, 2007)

§ 18.65.020. Definitions.

For the purposes of this chapter, all terms shall have the meanings given in Section 65915 of the **Government Code**, unless otherwise defined in this chapter. The following definitions shall apply:

"Affordable housing development" means a housing development of a minimum of five dwelling units where (1) ten percent of the total dwelling units in a common interest development are reserved for moderate income households, or (2) ten percent or more of the units are reserved for occupancy by lower income households; or (3) five percent or more of the units are reserved for occupancy by very low income households.

"Area median income" means the median household income for the county as determined by the Department of Housing and Community Development pursuant to **Health and Safety Code** Sections 50079.5 and 50105.

"Child care facility" means a child day care facility other than a family day care home, including, but not limited to, infant centers, preschools, extended day care facilities, and school-age child care centers.

"Concessions" means regulatory incentives or concessions as specified in California **Government Code** Sections 65915(1) to include, but not be limited to, the reduction of site development standards or zoning code requirements, direct financial assistance, approval of mixed use zoning in conjunction with the housing development, or any other regulatory incentives which would result in identifiable, financially sufficient, and actual cost avoidance or reductions that are offered in addition to a density bonus.

"Housing agency" means an agency approved by the planning commission to administer agreements with the applicant/developer to ensure the availability of affordable housing units for target households.

"Lower income household" means a household whose total income does not exceed eighty percent of the area median income.

"Moderate income household" means a household whose total income does not exceed one hundred ten percent of the area median income.

"Senior citizen housing development" means a housing development of either (1) a minimum of five dwelling units where fifty percent or more of the units are reserved for occupancy by at least one person sixty-two years of age or older, or (2) a minimum of thirty-five units where fifty percent or more of the units are reserved for occupancy by at least one person fifty-five years of age or older.

"Very low income household" means a household whose total income does not exceed fifty percent of the area median income.
(Ord. 1127 § 4, 2007)

§ 18.65.030. Applicability.

The DB overlay shall be applied when the applicant for a housing development seeks and agrees to construct a housing development, excluding any units permitted by the density bonus award, that contain at least any one of the following:

A. Five percent of the total units for very low income households;

B. Ten percent of the total units for lower income households;

C. Ten percent of the total dwelling units in a common interest development, as defined in Section 1351 of the **Civil Code**, for moderate income households, provided that all units in the development are offered to the public for purchase. The initial occupants of the moderate income units that are directly related to the receipt of the density bonus must be persons and families of moderate income, and the units must be offered at an affordable housing cost, as that cost is defined in Section 50052.5 of the **Health and Safety Code**;

D. A senior citizen housing development;

E. A donation of land to the county sufficient to provide housing for very low income households in the amount of ten percent of the number of residential units proposed for development, subject to Section **18.65.060**.

(Ord. 1127 § 4, 2007)

§ 18.65.040. Principal, accessory and conditional uses.

The principal, accessory and conditional uses in the DB district are the same as the uses authorized in the zoning district which is combined with the DB district.
(Ord. 1127 § 4, 2007)

§ 18.65.050. Density.

The maximum building density for any affordable housing development or senior citizen development shall be as follows or as required by statute, whichever is less:

A. For developments providing very low income housing, a twenty percent base density bonus plus a two and one-half percent supplemental increase over that base for every one percent increase in

very low income units above five percent. The maximum density bonus allowed is thirty-five percent;

B. For developments providing lower income housing, a twenty percent base density bonus plus a one and one-half percent supplemental increase over that base for every one percent increase in lower income units above ten percent. The maximum density bonus allowed is thirty-five percent;

C. For common interest developments providing moderate income housing, a ten percent base density bonus plus a one percent increase over that base for every one percent increase in moderate income units above ten percent. The maximum density bonus allowed, including supplemental increases, is thirty-five percent;

D. For developments, providing senior citizen housing, twenty percent;

E. For donation of land in accordance with Section **18.65.060**, a fifteen percent base density bonus plus a one percent supplemental increase over that base for every land donation that provides a one percent increase in housing for very low income households. The density bonus shall be in addition to bonuses awarded in subsections **A** through **D** of this section, to a combined maximum of thirty-five percent.

(Ord. 1127 § 4, 2007)

§ 18.65.060. Donation of land.

An applicant for a tentative subdivision map, parcel map, or other residential development approval, may receive a density bonus for the donation of land to the county, or to a developer approved by the planning commission, subject to the following conditions:

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 ten 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 forty units, has the appropriate general plan designation, is appropriately zoned for development as affordable housing, and is or will be served by adequate public facilities and infrastructure;

D. The transferred land and the affordable units shall be subject to deed restrictions ensuring continued affordability of the units as required by statute;

E. The transferred land shall be within the boundary of the proposed development or, with approval of the planting commission, within one-quarter mile of the boundary of the proposed development.

(Ord. 1127 § 4, 2007)

§ 18.65.070. Child care facility.

When an applicant proposes to construct affordable housing that conforms to the requirements of this chapter and includes a child care facility that will be located on the promises of, as part of, or adjacent to the project, the planning commission shall approve, subject to all conditions required by Section 65915 of the Government Code, 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.

(Ord. 1127 § 4, 2007)

§ 18.65.080. General provisions.

A. The density bonus shall be a density increase over the otherwise maximum allowable residential density under this title and the applicable land use element of the general plan as of the date of application.

B. All density 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. The county shall not apply any development standard that would have the effect of precluding the construction of a housing development meeting the requirements of Chapter 18.65.030 (Applicability).

E. Upon request by the applicant, the county shall not require that a housing development provide a vehicular parking ratio, inclusive of handicapped and guest parking, that exceeds one onsite parking space for zero to one bedrooms, two onsite parking spaces for two to three bedrooms, or two and one-half onsite parking spaces for four and more bedrooms.

(Ord. 1127 § 4, 2007)

§ 18.65.090. Building site area/parcel size.

The minimum building site area/parcel size for any affordable housing or senior citizen development pursuant to this chapter shall be reduced to be consistent with the maximum building density under Section **18.65.050**. The minimum required width of parcels shall remain as specified in the underlying zoning district.

(Ord. 1127 § 4, 2007)

§ 18.65.100. Density bonus concessions—Generally.

In addition to the eligible density bonus percentage described above; an applicant may request concessions in connection with its application for a density bonus as follows:

A. One concession for housing developments that include at least five percent of the total units for very low income households, at least ten percent for lower income households, or at least ten percent for moderate income house-holds in a common interest development;

B. Two concessions for housing developments that include at least ten percent of the total units for very low income households, at least twenty percent for lower income households or at least twenty percent for moderate income households in a common interest development;

C. Three concessions for projects that include at least fifteen percent for very low income households, at least thirty percent of the total units for lower income households, or at least thirty percent for persons or families of moderate income in a common interest development.

(Ord. 1127 § 4, 2007)

§ 18.65.110. Density bonus concessions—Yards.

Where concessions are required to meet affordability targets mandated by Section 65915 of the **Government Code**, the minimum yard requirements are as follows:

A. In an R-l, R-2 or RMH district the minimum yard requirements shall be as follows:

1. Depth of front yard, twenty feet;

2. Depth of rear yard, ten feet. In addition, extensions of dwellings into required rear yards pursuant to Sections **18.30.100** and 18.36.100 shall not be permitted;

3. Depth of side yards, three feet.

B. In an R-3 district the minimum yard requirements shall be as follows:

1. Depth of front yard, five feet, except where the front yard is utilized to provide required parking pursuant to Section **18.34.050(H)**;

2. Depth of rear yard, five feet; zero feet for accessory buildings;

3. Depth of side yard, five feet; zero feet for accessory buildings;

4. Distance between buildings on the same property, ten feet.

(Ord. 1127 § 4, 2007)

§ 18.65.120. Denial of request for concessions.

The planning commission shall grant concession(s) requested by the applicant unless the planning commission makes a written finding, based upon substantial evidence, of either of the following:

A. The incentive or concession is not required in order to provide for affordable housing costs or affordable rents. The applicant shall be required to prove that a concession is required to make the housing economically feasible.

B. The incentive or concession would have a specific adverse impact, as defined in paragraph (2) of sub-division (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 if the planning commission determines there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to very low, lower and moderate income households.

(Ord. 1127 § 4, 2007)

§ 18.65.130. Plot plan and development plan required.

Any application for the density bonus overlay zone shall be in the form and method prescribed by the planning director and accompanied by plot and development plans necessary to determine compliance with the purpose, intent and development standards prescribed by the DB overlay. The development plans shall contain sufficient cost and market data based upon the land cost per dwelling unit to assure any density bonus concessions granted are necessary to attain the affordability targets mandated by Section 65915 of the **Government Code**.

(Ord. 1127 § 4, 2007)

§ 18.65.140. Management contract required.

A. Before any permit to construct is issued in the DB overlay zone, a project management plan in the form of a written contract and deed restrictions shall be executed by and between the applicant, housing agency and county. The contract and deed restrictions shall be a recorded document approved by the county counsel as to form and content, and shall set forth sales, resales and rental restrictions to ensure that designated units remain available as affordable or senior citizen units, as applicable, for the term of the project as required by Section 65915 of the Government Code.

B. The management plan shall provide for the housing agency to ensure the financial or age eligibility of applicants for purchase/rental of the affordable housing or senior citizen units for the term of the

project. If requested by the housing agency, the management plan shall provide for reimbursement by the applicant of the costs to the housing agency of administering the management plan.

(Ord. 1127 § 4, 2007)

§ 18.65.150. Approval required, subject to standards.

As provided by Section 65915 of **Government Code**, when a developer submits a complete application for a DB overlay, the planning commission shall approve the application, unless it documents through findings that the affordable housing or senior citizen development as proposed would have a specific adverse impact upon the public health and safety, and there is no feasible method to satisfactorily mitigate or avoid the impact without rendering the development unaffordable to moderate income, lower income or very low income households.

(Ord. 1127 § 4, 2007)

§ 18.65.160. Location of bonus units.

As provided by **Government Code** Section 65915, the location of density bonus units within the housing development may be at the discretion of the developer; however, the bonus units shall be reasonably dispersed throughout the development, shall contain on average the same number of bedrooms as the bonus units in the development, and shall be compatible with the design or use of the remaining units in terms of exterior appearance, materials and quality finish.

(Ord. 1127 § 4, 2007)

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE COUNTY OF INYO, STATE OF CALIFORNIA, RECOMMENDING THAT THE BOARD OF SUPERVISORS FIND THE PROPOSED AMENDMENT EXEMPT FROM THE REQUIREMENTS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, MAKE CERTAIN FINDINGS WITH RESPECT TO, AND APPROVE ZONE TEXT AMENDMENT NO. 2025-01 INYO COUNTY

WHEREAS, Sections 65915 et seq. of the California Government Code, known as the State Density Bonus Law, require a county to provide density bonus and other incentives to a developer who proposes a housing development containing affordable, and other types of housing, within the county's jurisdictional boundaries; and

WHEREAS, California Government Code Section 65915(a) requires all jurisdictions within the state to adopt an ordinance that specifies how compliance with State Density Bonus Law will be implemented; and

WHEREAS, Chapter 18.65 of the Inyo County Code contains the County's Density Bonus Overlay regulations; and

WHEREAS, since the County's adoption of Chapter 18.65 in 2004 and its last amendment in March 2007, the State Legislature has passed, and the Governor has signed into law, numerous changes to State Density Bonus Law; and

WHEREAS, the Inyo County 2021-2029 6th Cycle Housing Element, was adopted on September 26, 2023 and subsequently approved by the California Department of Housing and Community Development on October 30, 2023 requires an update to the County's Density Bonus Overlay; and

WHEREAS, the proposed amendment to Chapter 18.65 will serve to better implement the goals and policies of the Housing Element of the Inyo County General Plan, which includes: Goal 3.0; Policy 3.2; Goal 5.0; Policy 5.1; and Policy 5.2; and as the Housing Element may be updated from time to time; and

WHEREAS, the Inyo County Planning Commission held a public hearing on January 22, 2025, to review and consider the request for approval of Zone Text Amendment (ZTA) No. 2025-01, which amends Chapter 18.65 of the Inyo County Code, and considered the staff report for the amendment and all oral and written comments regarding the proposal; and

WHEREAS, the proposed amendment is consistent with the goals and policies of the County's General Plan and Zoning Code.

NOW, THEREFORE, BE IT HEREBY RESOLVED, that based on all the written and oral comment and input received during the January 22, 2025, hearing, including the Planning Department Staff Report, the Planning Commission makes the following findings regarding the proposal and hereby recommends that the Board of Supervisors adopt the following findings for the proposed amendment:

1. The proposed ordinance is covered by the Common Sense Rule 15061(b)(3) that states CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. This project is a proposal to amend parts of the County Code to comply with current State housing laws, the requirements set forth by the California Department of Housing and Community Development, per the County's 6th cycle Housing Element Update, and does not add residential densities or uses that have not previously been evaluated under CEQA or are currently not allowed by the zoning code.

2. The proposed amendment is consistent with the state-mandated program established under Government Code 65915 et seq.

3. Based on substantial evidence in the record, the proposed Zoning Ordinance Amendment is consistent with the Goals and Policies of the Inyo County General Plan.

4. Based on substantial evidence in the record, the proposed Zoning Ordinance Amendment is consistent with Title 18 (Zoning Ordinance) of the Inyo County Code.

BE IT FURTHER RESOLVED that the Planning Commission recommends that the Board of Supervisors take the following actions:

1. Approve the Ordinance amending Chapter 18.65 to the Inyo County Code related to the Density Bonus Overlay District consistent with the requirements of State law and based on all the information in the public record and on the recommendations of the Planning Commission.

2. Certify that ZTA 2025-01, is not a project under CEQA pursuant to Section 21000 of the Public Resources Code and is further Exempt from CEQA pursuant to 15061(b)(3) of the CEQA Guidelines.

PASSED AND ADOPTED this 22nd day of January 2025, by the following vote of the Inyo County Planning Commission:

AYES:
NOES:
ABSTAIN:
ABSENT:

_____
Chairperson
Inyo County Planning Commission

ATTEST:
Cathreen Richards, Planning Director

By _____
Sally Faircloth, Secretary of the Commission

ORDINANCE NO.

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF INYO, STATE OF CALIFORNIA, AMENDING INYO COUNTY CODE CHAPTER 18.65 PERTAINING TO DB DISTRICTS – DENSITY BONUS OVERLAY

WHEREAS, Sections 65915 et seq. of the California Government Code, known as the State Density Bonus Law, require a county to provide density bonus and other incentives to a developer who proposes a housing development containing affordable, and other types of housing, within the county's jurisdictional boundaries; and

WHEREAS, California Government Code Section 65915(a) requires all jurisdictions within the state to adopt an ordinance that specifies how compliance with State Density Bonus Law will be implemented; and

WHEREAS, Chapter 18.65 of the Inyo County Code contains the County's Density Bonus Overlay regulations; and

WHEREAS, since the County's adoption of Chapter 18.65 in 2004 and its last amendment in March 2007, the State Legislature has passed, and the Governor has signed into law, numerous changes to the State Density Bonus Law; and

WHEREAS, the Inyo County 2021-2029 6th Cycle Housing Element, was adopted on September 26, 2023 and subsequently approved by the California Department of Housing and Community Development on October 30, 2023 requires an update to the County's Density Bonus Overlay; and

WHEREAS, the proposed amendment to Chapter 18.65 will serve to better implement the goals and policies of the Housing Element of the Inyo County General Plan, which includes: Goal 3.0; Policy 3.2; Goal 5.0; Policy 5.1; and Policy 5.2; and as the Housing Element may be updated from time to time; and

WHEREAS, on January 22, 2025, the Inyo County Planning Commission held a public hearing to adopt a Resolution recommending that the Board adopt an Ordinance to update the County's Density Bonus Law requirements.

NOW, THEREFORE, the Board of Supervisors, County of Inyo, ordains as follows:

SECTION I. The recitals above are incorporated herein as findings.

SECTION II. Chapter 18.65.010 of the Inyo County Code is hereby amended to read as follows:

18.65.010 Intent and purpose.

The purpose of this Chapter is to provide for density bonuses and incentives to developers who comply with California Government Code Sections 65915 through 65918 (State Density Bonus

Law) and as may be amended from time to time. In enacting this Chapter, it is also the intent of the County to implement the goals, objectives, and policies of the County's Housing Element and General Plan.

SECTION III. Chapter 18.65.020 of the Inyo County Code is hereby amended to read as follows:

18.65.020 Adoption of the State Bonus Density Law.

The State Bonus Density Law adopted by the State of California and as set forth in Government Code Sections 65915 through 65978, and as may be amended from time to time, is hereby adopted and incorporated into this Title by reference as though it were fully set forth herein. In addition to those requirements set forth in the State Bonus Density Law, an applicant must meet the requirements of this Chapter.

SECTION IV. Chapter 18.65.030 of the Inyo County Code is hereby amended to read as follows:

18.65030 Definitions.

Unless otherwise specified in this Chapter, the definitions found in State Density Bonus Law shall apply to the terms contained herein.

SECTION V. Chapter 18.65.040 of the Inyo County Code is hereby amended to read as follows:

18.65.040 Applicability.

This Section shall apply to any housing development as defined in California Government Code Section 65915(i). In the event the density allowed under the zoning district is inconsistent with the density allowed under the County's General Plan Land Use Designation, the General Plan shall prevail.

SECTION VI. Chapter 18.65.050 of the Inyo County Code is hereby amended to read as follows:

18.65.050 State Density Bonus and Incentives.

A developer of a housing development in the County may be permitted a density bonus and incentives in accordance with the provisions of California Government Code Sections 65915 through 65918 (State Density Bonus Law) applicable at the time of application submission.

SECTION VII. Chapter 18.65.060 of the Inyo County Code is hereby amended to read as follows:

18.65.60 Application Requirements and Review.

A. The following two applications are required for any housing development project proposed within the County that is also seeking a density bonus or other incentive:
    1. A Planning Department Permit Application
    2. A Bonus Density Review Application.

B. Bonus Density Review Application.

The Bonus Density Review Application is for any applicant seeking a state density bonus, incentive or concession, waiver or modification of a development standard, or a revised parking standard, or any other provision provided by the State Density Bonus Law. This application shall be submitted with the first application for approval of a housing development and shall be processed concurrently with all other applications required for the housing development. The application shall be submitted on a form prescribed by the County and shall include all the following information and documentation:

a. A site plan showing the total number and location of all proposed housing units and the number and location of proposed housing units which qualify the housing development for density bonus housing units.

b. Summary table showing the maximum number of dwelling units permitted by the zoning and general plan excluding any density bonus units, proposed affordable units by income level, proposed bonus percentage, number of density bonus units proposed, total number of dwelling units proposed on the site, and resulting density in units per acre.

c. A description of all dwelling units existing on the site in the five-year period preceding the date of submittal of the application and identification of any units rented in the same five-year period; subject to any form of rent control through a public entity's valid exercise of its police power; or subject to a recorded deed or covenant ordinance, or law restricting rents to levels affordable households of lower or very low income.

d. If dwelling units on the site are currently rented, income and household size of all residents of currently occupied units, if known. If any dwelling units on the site were rented in the five-year period preceding the date of submittal of the application but are not currently rented, the income and household size of residents occupying the dwelling units when the site contained the maximum number of dwelling units, if known.

e. A description of any requested incentives and concessions, waivers or modification of development standards, or modified parking standards. Except where mixed-use zoning is proposed as an incentive, reasonable documentation to show that any requested incentive or concession will result in identifiable and actual cost reductions to provide for affordable housing costs or rents. Reasonable documentation that each of the development standards for which a waiver is requested will have the effect of physically precluding the construction of a development at the densities or with the concessions or incentives permitted by Government Code Section 65915.

f. If a density bonus is requested for a land donation, the application shall show the location of the land to be dedicated and provide evidence that each of the conditions of Government Code Section 65915 (g)(2)(A through H) are met.

g. If a density bonus or incentive or concession is requested for a child care facility pursuant to Government Code Section 65915 (h), the application shall show the location and square footage of the child care facility and provide evidence that the community in which the facility is proposed to be developed, lacks adequate child care facilities.

C. Review and Consideration. A Bonus Density Review Application shall be considered and acted upon by the Planning Department. The Planning Department shall review a complete application within 30 days of the submission of the complete application.

SECTION VIII. Chapter 18.65.070 of the Inyo County Code is hereby amended to read as follows:

18.65.070 Density Bonus Housing Deed Restriction.

A. Housing development projects receiving a density bonus, concession, incentive, or waiver pursuant to this Chapter shall execute and record a deed restriction with the County which sets forth the required conditions and guidelines.

B. The terms of the deed restriction shall be subject to the requirements established by the County at the time of project approval.

C. The deed restriction shall be entered into prior to final or parcel map approval, or, where a map is not being processed, prior to the issuance of the building permits for the housing development project.

D. The Density Bonus Housing Deed Restrictions shall remain in effect for the entire term of affordability of the housing units created pursuant to this Chapter, or as required by State Law, whichever is greater.

SECTION IX. Chapter 18.65.080 of the Inyo County Code is removed in its entirety.

SECTION X. Chapter 18.65.090 of the Inyo County Code is removed in its entirety.

SECTION XI. Chapter 18.65.100 of the Inyo County Code is removed in its entirety.

SECTION XII. Chapter 18.65.110 of the Inyo County Code is removed in its entirety.

SECTION XIII. Chapter 18.65.120 of the Inyo County Code is removed in its entirety.

SECTION XIV. Chapter 18.65.130 of the Inyo County Code is removed in its entirety.

SECTION XV. Chapter 18.65.140 of the Inyo County Code is removed in its entirety.

SECTION XVI. Chapter 18.65.150 of the Inyo County Code is removed in its entirety.

SECTION XVII. Chapter 18.65.160 of the Inyo County Code is removed in its entirety.

SECTION XVIII. Amending Inyo County Code Chapter 18.65 is exempt from the requirements of the California Environmental Quality Act pursuant to General Rule 15061(b)(3) the "common sense" exemption because there is no possibility that the revision of the County's Density Bonus Overlay regulations to match state law will have a significant effect on the environment.

SECTION XIX: EFFECTIVE DATE. This Ordinance shall take effect and be in full force and effect thirty (30) days after its adoption. Before the expiration of fifteen (15) days from the adoption hereof, this Ordinance shall be published as required by Government Code Section 25124. The Clerk of the Board is hereby instructed and ordered to so publish this Ordinance together with the names of the Board members voting for and against same.

PASSED AND ADOPTED THIS __ DAY OF _____, 2025.

AYES:
NOES:
ABSTAIN:
ABSENT:

_____
Chair
Inyo County Board of Supervisors

ATTEST:
By:_____