



DENSITY BONUS

This Information Bulletin outlines the development and processing requirements in order to receive the benefits provided for under the California Density Bonus Law.

I. BACKGROUND

Density Bonus is a State law (Gov. Code §65915) that allows a developer to increase density (the number of new homes) on a property above the maximum set under a city's local land use plan (referred to as the General Plan) as well as receive reductions in required development standards such as setbacks, height limits, and parking requirements. In exchange for the increased density, a certain number of the new homes must be reserved for very low, low, or moderate income households or for seniors.

II. PROJECT ELIGIBILITY

Any housing development that proposes **five or more** units and incorporates at least one of the requirements below is eligible for a density bonus.

- 5% units restricted to "Very Low Income"
- 10% units restricted to "Low Income" or "Moderate Income"
- 10% units restricted for transitional foster youth, disabled veterans, or homeless
- 20% units for "Low Income" student housing
- A senior housing project
- An age-restricted mobile home park
- Projects which include a child care facility

Units must be restricted to their level of affordability for at least 55 years by recorded document.

Eligibility is established by state law. A city may not enact or impose local laws that conflict with State law or prohibit what the legislature intends to authorize.

III. HOW IS DENSITY BONUS CALCULATED?

The number of additional units allowed under this program is set on a sliding scale, based on two factors:

- The percentage of units in the project that will be set aside as affordable; and,

Documents Referenced in this Information Bulletin

- State Density Bonus Law, [§65915](#)
- Murrieta Municipal Code, [§16.20](#)
- Density Bonus Calculation Chart, [TD-227](#)
- Density Bonus Application Checklist, [DS-257](#)
- Pre-Application Application, [DS-240](#)

- The household income category of those affordable units (very low, low, or moderate household income).

State law requires that all density calculations resulting in fractional units shall be rounded up to the next whole number. This applies to both Base Density and Density Bonus calculations.

Notwithstanding the above, State law requires that the percentage of affordable units on the site must exceed the percentage established in the sliding scale. While this can be interpreted that the fractional percentage of units being reserved as affordable can be rounded down, the City allows the fractional unit to be rounded up, consistent with other density calculations and the overall intent of the state law.

IV. THEORETICAL EXAMPLE

A property is 1.4 net acres in size, with a zoning designation of MF-2 (18 dwelling units per acre). This results in a maximum Base Density of 25.2 units for this site (1.4 acres multiplied by 18 units per acre), which rounds up to 26 units.

The applicant proposes that three of the units will be reserved for *very low income* households. This results in 11.5% of the 26 units that will be reserved for affordable housing, which rounds up to 12%.

Based on the sliding scale found in TD-227, with 12% of the units reserved as affordable, the project's Base Density can increase by 35%, for a total of 35.1 units, which rounds up to 36 total units.

V. WHAT ARE CONCESSIONS/INCENTIVES?

In many cases, a development project must be modified and/or reduced in order to comply with established objective design standards and other regulations such as limits/requirements on building

height, setback, parking, and on-site open space requirements.

Concessions and incentives, as defined under State law, allow a developer to deviate from those design standards/regulations when such regulations potentially make the project economically infeasible for the developer to build.

The number of concessions/incentives that can be requested by a developer varies by the amount and type of reserved affordable units being proposed, as reflected in the chart below.

Percentages between these ranges are rounded down. For example, the sample project that reserved 12% of the units for very low income receives two concessions/incentives.

Income Category	% of Reserved Units			
	5%	10%	15%	Up to 80%
Very Low	5%	10%	15%	Up to 80%
Low	10%	20%	30%	Up to 80%
Moderate	10%	20%	30%	Up to 20%
Senior	n/a	n/a	100%	n/a
Max. # of Incentives	1	2	3	4*
*To Qualify for 4 incentives, a project must reserve <u>at least 80% of the units for lower income households</u> (Very Low, Low, or combination thereof). The remaining 20% may be reserved for Moderate Income Households.				

VI. HOW DO YOU DETERMINE ECONOMIC INFEASIBILITY?

As part of the request for a concession/incentive, the applicant must provide evidence that the design standard/regulation causes the project to become too expensive to build. This can be accomplished through a financial pro-forma or other similar study or analysis.

The study must demonstrate that the requested concession/incentive results in identifiable, financially sufficient, and actual cost reductions that contribute significantly to the economic feasibility of the reserved affordable units.

VII. WHAT ARE WAIVERS?

Waivers are yet another form of assistance under State law, separate from concessions and incentives. A waiver is a reduction in development standards and other regulations when those requirements potentially make the construction of the project physically infeasible, if not approved.

Unlike concessions and incentives, there is no limit in the number of waivers an applicant can request. Furthermore, while the developer must justify the need for a waiver, a pro-forma (or other similar analysis) is not required.

VIII. CAN THE CITY DENY A CONCESSION/INCENTIVE OR WAIVER?

Yes. Nothing in the State law requires a local government to grant an incentive or waiver that will potentially result in a specific, adverse impact upon public health, safety or environment. Public Health and Safety Criteria Issues to be aware of when evaluating potential locations (Please Note: Not an Exhaustive List):

- A proposed density bonus project that would be located within an airport compatibility zone found to be inconsistent with the compatibility criteria
- A proposed density bonus project that would be located within a FEMA floodway
- A proposed density bonus project that would be located at a Hazardous Waste Site, pursuant to Section 65962.5 of the Government Code
- A proposed density bonus project that would be located within a High Fire Severity Overlay Zone

The burden of proof is on the jurisdiction to determine if there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Under the law, the court shall award the plaintiff attorney's fees and costs should the City not adequately justify the denial of a concession/incentive or waiver.

IX. YOUR OPTIONS FOR SERVICE

A Project Pre-Application Information Worksheet (DS-240) application is strongly recommended (although not a requirement) to be submitted prior to the submittal of a formal application to assist with the initial review portion of a density bonus project.

Formal application(s) for a density bonus project will be required to submit information requested under the Density Bonus Supplemental Application Checklist (DS-257), as required under Murrieta Municipal code §16.20. To improve process review, an appointment is recommended to walk through project submittal and processing requirements. Please call (951) 461-6062 to schedule an appointment.

NOTE: Please refer to State Density Bonus Law Government Code (§65915 et al) for additional details with respect to conformance/associated regulations.