

CHAPTER 12

AFFORDABLE HOUSING DENSITY BONUS

SECTION:

- 10-12-1: Purpose
- 10-12-2: Applicability
- 10-12-3: Definitions
- 10-12-4: Eligibility for Density Bonus
- 10-12-5: Density Bonus Calculations
- 10-12-6: Eligibility and Application Requirements for Incentives
- 10-12-7: Child Care Facilities
- 10-12-8: Donation of Land
- 10-12-9: General Requirements for Qualifying Units
- 10-12-10: Density Bonus Application Requirements
- 10-12-11: Application Review
- 10-12-12: Density Bonus Housing Agreement Required
- 10-12-13: Violation Of Affordable Housing Cost Requirements

10-12-1: **PURPOSE:** To provide incentives or concessions to developers for the production of housing units affordable to very low, lower, and moderate income households and to senior citizens. This Chapter implements within the City the State Density Bonus Law (California Government Code Sections 65915 through 65917), as may be amended from time to time. In the event that any provision in this Chapter conflicts with state law, state law shall control.

10-12-2: **APPLICABILITY:** The provisions of this Chapter are applicable in all residential zoning districts.

10-12-3: DEFINITIONS:

AFFORDABLE RENT: Is defined by Section 50053 of the Health and Safety Code and means the monthly rent which, together with utility allowance, does not exceed the following:

1. For Very Low Income Household Density Bonus Units: Fifty percent (50%) of the area median income for El Dorado County, adjusted for household size, multiplied by thirty percent (30%) and divided by twelve (12).
2. For Lower Income Household Density Bonus Units: Sixty percent (60%) of the area median income for El Dorado County, adjusted for household size, multiplied by thirty percent (30%) and divided by twelve (12).
3. For Moderate Income Households Density Bonus Units: One-hundred ten percent (110%) of the area median income for El Dorado County, adjusted for household size, multiplied by thirty percent (30%) and divided by twelve (12).

AFFORDABLE SALES PRICE: A sales price at which very low, lower or moderate income households can qualify for the purchase of qualifying units.

BASE UNITS: The number of units allowed under the land use and zoning designation that are included within a housing development.

CHILD CARE FACILITY: A facility, other than a day care home, licensed by the State of California to provide non-medical care to children under 18 years of age in need of personal services, supervision or assistance on less than a 24-hour basis.

CITY: City of Placerville.

DENSITY BONUS: An increase in density over the otherwise maximum allowable residential density under the applicable Zoning Ordinance and General Plan Land Use designation taking into account all applicable limitations.

DENSITY BONUS HOUSING AGREEMENT: A legally binding agreement between the City and an applicant, governing how the applicant shall comply with this Section.

HOUSEHOLD: One or more individuals who occupy one dwelling unit.

HOUSING DEVELOPMENT: A project providing residential units including a subdivision a planned unit development, multifamily dwellings, or condominium project. Housing developments consist of development of residential units or creation of unimproved residential lots and also include either a project to substantially rehabilitate and convert an existing commercial building to residential use or the substantial rehabilitation of an existing multifamily dwelling, where the result of the rehabilitation would be a net increase in available residential units.

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| INCENTIVE: | Enticements for providing affordable housing proposed by the developer or the City that result in identifiable, financially sufficient, and actual cost reductions for a qualified housing development. |
| LOWER INCOME HOUSEHOLD: | A household whose income does not exceed eighty (80) percent of the area median income for El Dorado County adjusted for family size, as published and periodically updated by the State Department of Housing and Community Development. See Health and Safety Code Section 50079.5. |
| LOWER INCOME UNIT: | A qualifying unit reserved for occupancy by lower income households at an affordable rent or sales price. |
| MAXIMUM ALLOWABLE RESIDENTIAL DENSITY: | The density allowed under the General Plan, or if a range of density is permitted, means the maximum allowable density for the specific zoning range applicable to the project. Maximum allowable residential density takes into account limitations to density pursuant to General Plan policies and Zoning Ordinance regulations. |
| MODERATE INCOME HOUSEHOLD: | A household that does not exceed one-hundred twenty (120) percent of area median income for El Dorado County, adjusted for family size, as published and periodically updated by the State Department of Housing and Community Development. See Health and Safety Code Section 50093. |
| MODERATE INCOME UNIT: | A qualifying unit reserved for occupancy by moderate income households at an affordable rent or sales price. |
| QUALIFYING UNITS: | A dwelling or dwellings designated for occupancy by very low, lower, or moderate income households within a housing development in connection with a request for a density bonus. |
| SENIOR CITIZEN HOUSEHOLDS: | Households headed by a person sixty-two (62) years of age or older. |
| SENIOR CITIZEN HOUSING DEVELOPMENT: | A residential development developed, substantially rehabilitated, or substantially renovated for senior citizen households that has at least thirty-five (35) dwelling units. |
| VERY LOW INCOME HOUSEHOLD: | A household that earns less than fifty (50) percent of the area median income for El Dorado County adjusted for family size, as published and periodically updated by the State Department of Housing and Community Development. See Health and Safety Code Section 50105. This term includes extremely low income households earning less than thirty (30) percent of the area median income for El Dorado County, adjusted for family size and updated annually. |
| VERY LOW INCOME UNIT: | A qualifying unit reserved for occupancy by very low income households at an affordable rent or sales price. |

10-12-4: **ELIGIBILITY FOR DENSITY BONUS:** A development containing five (5) or more units shall qualify for a density bonus and at least one other incentive as provided by this Chapter if the applicant does one of the following:

- (A) Agrees to construct and maintain at least five (5) percent of the base units for very low income households;
- (B) Agrees to construct and maintain at least ten (10) percent of the base units for lower income households;
- (C) Agrees to construct and maintain at least ten (10) percent of the base units in a common interest development as defined in Civil Code Section 1351 and after January 1, 2014 Civil Code Section 4100 et seq. dedicated to moderate income households, provided that all units in the development are offered to the public for purchase;
- (D) Agrees to construct and maintain a Senior Citizen Housing Development;
- (E) Donates land to the City for the construction of very low income units pursuant to the provisions of Section 10-12-8; or
- (F) Includes a qualifying child care facility pursuant to the provisions of Section 10-12-7, in addition to providing housing described in subsections (A), (B), or (C) of this Section.

10-12-5: **DENSITY BONUS CALCULATIONS:**

- (A) The granting of a density bonus or the granting of a density bonus together with an incentive(s) shall not be interpreted, in and of itself, to require a General Plan amendment, specific plan amendment, rezone, or other discretionary approval.
- (B) An applicant must choose a density bonus from only one applicable affordability category of this Chapter and may not combine categories, with the exception of a child care facility or land donation, which may be combined with an affordable housing development for an additional density bonus up to a combined maximum of thirty-five (35) percent.
- (C) The calculation of qualifying units shall be based on the number of base units. In no event shall a density bonus exceed thirty-five (35) percent of base units. A housing development that satisfies all applicable provisions of this Chapter shall be allowed the following applicable density bonuses:
 - 1. The density bonus for very low income units shall be calculated as follows.

| Very Low Income Units | |
|--------------------------------------|-----------------------------|
| 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 |
| 15 | 35 |

- 2. The density bonus for lower income units shall be calculated as follows:

| Lower Income Units | |
|---------------------------------|-----------------------------|
| 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 |
| 30 | 35 |

3. The density bonus for moderate income units shall be calculated as follows:

| Moderate Income Units | |
|--------------------------------------|-----------------------------|
| 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 |

4. A senior citizen housing development qualifies for a twenty (20) percent density bonus.
5. Apartment conversions to condominium projects that provide at least thirty-three (33) percent of the total units of the condominium project to persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, or fifteen (15) percent of the total

units of the project to lower income households, as defined in Section 50079.5 of the Health and Safety Code, and agrees to pay for the reasonable necessary administrative costs incurred by the City, qualify for a twenty-five (25) percent density bonus or other incentives of equivalent financial value.

An applicant shall be ineligible for a density bonus or other incentives if the apartments proposed for conversion constitute a housing development for which a density bonus or other incentives were provided under the other provisions of this chapter.

10-12-6: **ELIGIBILITY AND APPLICATION REQUIREMENTS FOR INCENTIVES:**

(A) A housing development qualifying for a density bonus is entitled to at least one incentive in addition to the density bonus. Incentives are available for qualifying housing developments as follows:

1. One (1) incentive for a housing development project that includes at least:
 - A. Five (5) percent of base units for very low income households;
 - B. Ten (10) percent of base units for lower income households; or
 - C. Ten (10) percent of base units for moderate income households within a condominium project or a planned unit development.
2. Two (2) incentives for a housing development that includes at least:
 - A. Ten (10) percent of the base units for very low income households;
 - B. Twenty (20) percent of the base units for lower income households; or
 - C. Twenty (20) percent of the base units for moderate income households within a condominium project or a planned unit development.
3. Three (3) incentives for a housing development that includes at least:
 - A. Fifteen (15) percent of base units for very low income households;
 - B. Thirty (30) percent of base units for lower income households; or
 - C. Thirty (30) percent of base units for moderate income households within a condominium project or a planned unit development.

(B) The City shall grant the incentive unless the City makes a written finding, based upon substantial evidence, of any of the following:

1. That the incentive is not necessary in order to provide for affordable housing costs as defined in Health & Safety Code Section 50052.5; or for rents for the targeted units to be set as specified in Health & Safety Code Section 50053; or
2. That the incentive would result in specific adverse impacts, as defined in Health & Safety Code Section 65589.5(d)(2), upon the public health and safety, the physical environment or any real property that is listed in the California register of Historical Resources and to which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to very low, low, and moderate income households; or
3. That the incentive would be contrary to state or federal law.

- (C) Where a housing development qualifies for incentives pursuant to this Chapter the applicant may request any of the following incentives:
1. A reduction in site development standards such as:
 - A. Reduced minimum lot sizes and/or dimensions;
 - B. Reduced minimum setbacks;
 - C. Increased lot coverage;
 - D. Increased maximum building heights; or
 - E. Reduced on-site parking requirements.
 2. Approval of a mixed use zoning in conjunction with the housing development if commercial, office, or other land uses will reduce the cost of the housing development and if the commercial, office or other land uses are compatible with the housing development and the existing or planned development in the area where the proposed housing development will be located; or
 3. Other regulatory incentives proposed by the developer or the City, which result in identifiable, financially sufficient and actual cost reductions.
 4. In addition to the requested incentives above and not counting toward the eligible number of incentives, any applicant qualifying for a density bonus may request, inclusive of handicapped and guest parking, the following parking ratios:
 - A. Zero to one bedroom: one onsite parking space
 - B. Two to three bedrooms: two onsite parking spaces
 - C. Four or more bedrooms: two and one-half parking spaces

If the total number of parking spaces for the development is other than a whole number the number shall be rounded up to the next whole number.

10-12-7: **CHILD CARE FACILITIES:**

- (A) When an applicant proposes a housing development that is eligible for a density bonus under this Chapter and includes a child care facility on the premises or adjacent to the housing development, the applicant shall receive an additional density bonus that is in an amount of square feet of residential space that is equal to the square footage of the child care facility; or the applicant may receive another incentive that contributes significantly to the economic feasibility of the construction of the child care facility, provided that, in both cases, the following conditions are incorporated in the conditions of approval for the housing development:
1. The child care facility shall remain in operation for a period of time that is as long as or longer than the period of time during which the affordable units are required to remain affordable pursuant to the terms of the affordable housing agreement required by this Chapter.
 2. Attendance of children at the child care facility shall have an equal percentage or greater of children from very low, lower, and moderate income households than the percentage of affordable units in the housing development.
- (B) The City may deny the request for a density bonus or incentive for a child care facility if the City finds, based upon substantial evidence, that the community has adequate child care facilities without the facilities being considered as part of the subject housing development.

10-12-8: **DONATION OF LAND:**

- (A) When an applicant for a tentative subdivision map, parcel map or other residential development donates land to the City, the applicant shall be entitled to a density bonus above the maximum allowable residential density, up to a maximum of thirty-five (35) percent depending on the amount of land donated. This increase shall be in addition to any increase in density permitted by this chapter up to a maximum combined density increase of thirty-five (35) percent. A density bonus for donation of land shall only be considered if all of the following conditions are met:
1. 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.
 2. 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 (10) percent of the residential units in the proposed housing development seeking the density bonus.
 3. The transferred land is at least one acre in size or of sufficient size to permit development of at least forty (40) 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. The transferred land shall have appropriate zoning and development standards to make the development of the affordable units feasible. No later than the date of approval of the final subdivision map, parcel map or of the residential development the transferred land shall have all of the permits and approvals, other than building permits, necessary for the development of the very low income units on the transferred land, including Site Plan Review (Zoning Ordinance Section 10-4-9).
 4. The transferred land and the units constructed on said land shall be subject to a deed restriction ensuring continued affordability of the units for a period of at least thirty (30) years and subject to restrictions consistent with California Government Code Section 65915 (c)(1) and (2).
 5. The land is transferred to the City or to a housing developer approved by the City.
 6. The transferred land shall be within the boundary of the proposed development or, if the City determines appropriate, within one-quarter mile of the boundary of the proposed development.
 7. A proposed source of funding for the very low income units shall be identified prior to the approval of the final subdivision map, parcel map, or residential housing development application.

10-12-9: **GENERAL REQUIREMENTS FOR QUALIFYING UNITS:**

- (A) Location: Units shall be considered as part of the housing development for which the density bonus is being considered. To the greatest extent feasible, the qualifying units shall be located throughout the housing development that also includes market rate units. Qualifying units may be clustered or located off-site subject to the approval of the City, if such clustering or off-site location furthers affordable housing opportunities.
- (B) Exterior Appearance: The exterior appearance and quality of the qualifying units shall generally be similar to the market rate units, with exterior materials and improvements similar to, and architecturally compatible with, the market rate units in the development.
- (C) Construction Timing and Phasing: The qualifying units shall be constructed concurrently with or prior to construction of the market rate units. If a project is to be phased, the qualifying units shall be phased in the same proportion as the market rate units or phased in another sequence acceptable to the City.

10-12-10: **DENSITY BONUS APPLICATION REQUIREMENTS:** At the option of the applicant, the applicant may request a pre-application conference to meet with Development Services Department (Department) staff to discuss the density bonus and incentive requests, including any request for a waiver or reduction of development standards.

Each application for a density bonus and/or approval of incentives for the development of affordable housing units shall be accompanied by the following information. Applications shall be submitted to the Department for processing. Department staff shall determine the number of copies of application submittal materials required from the applicant.

- (A) A site plan that identifies all units in the project including the location of all base units and qualifying units.
- (B) A narrative briefly describing the project, to include:
 - 1. The number of base units permitted under the General Plan and zoning;
 - 2. The number of qualifying units based on density bonus criteria of this Chapter;
 - 3. The household income group targeted for the qualifying units; a calculation of the affordable sales price for units to be sold, or a calculation of the affordable rent for units rented to the targeted income group;
 - 4. The total number of units proposed in the project (base units plus density bonus units);
 - 5. A phasing plan (if applicable) that provides for the timely development of the qualifying units proportionate to each proposed phase of development;
 - 6. Any requested incentives including an explanation as to why the incentive(s) is required for the housing development;
 - 7. Land donation: If a density bonus is requested for a land donation meeting the requirements of Section 10-12-8 of this Chapter, the application shall show the following information regarding the land to be donated:
 - a. Location;
 - b. Size in acres;
 - c. General plan and zoning designations;
 - d. Location of public utilities in relation to site, and
 - e. Access: pedestrian and vehicular.
 - 8. Child Care Facility: If a density bonus is requested for construction of a child care facility meeting the requirements of Section 10-12-7 of this Chapter, the application shall show the location and square footage of the proposed facility.
- (C) Additional information as may be requested by the Director of Development Services to evaluate the request for a density bonus or incentive(s).

10-12-11: **APPLICATION REVIEW:** An application for a housing development with requested density bonus shall be processed concurrently with all other applications required for a building permit or discretionary permit required by the Zoning Ordinance (i.e., Site Plan Review, Conditional Use Permit, tentative parcel map, tentative subdivision map), along with applicable environmental documents set forth in the California Environmental Quality Act.

- (A) Action by the Development Services Department: The Department shall review the density bonus application for completeness and consistency with this Chapter, and for compatibility with the Placerville Airport Land Use Compatibility Plan (ALUCP), if the housing development is located within the ALUCP Influence Area. An application that is deemed complete by the Development Services Department shall be submitted to the Planning Commission for consideration.
- (B) Public Hearing before Planning Commission: At the time and place set for a public hearing before the Planning Commission, the Commission shall consider the density bonus application, recommendations of the Development Services Department, the appropriate environmental documentation, and any other information available. The Planning Commission shall then take one of the following actions:
1. Recommend approval to the City Council;
 2. Refer the proposed application back to the developer with recommendations as to amending the application; or
 3. Recommend that City Council deny the request.

The Planning Commission's recommendation(s) shall be supported by substantial evidence in the record.

- (C) Action by City Council: At the time and place set for public hearing on the density bonus application, the City Council shall consider the recommendation of the Planning Commission, appropriate environmental documentation and public comments, and then take one of the following actions:
1. Approve the housing development and adopt the proposed density bonus application; or
 2. Continue the public hearing to a date certain, referring the application back to the applicant with recommendations to amending said application; or
 3. Disapprove the application.

The City Council's action shall be supported by substantial evidence in the record.

10-12-12: **DENSITY BONUS HOUSING AGREEMENT REQUIRED:**

The applicant shall submit a density bonus housing agreement (housing agreement) for City Council approval for an approved housing development subject to this Chapter. The form of the housing agreement will vary, depending on the manner in which the provisions of this Chapter are satisfied for a particular development. The form and content of the housing agreement shall be subject to the review of the City Attorney.

The housing agreement shall be recorded as a title restriction on the parcel or parcels on which the affordable housing units will be constructed. The cost of recording any title restriction(s) shall be borne by the applicant. The approval and recordation of the housing agreement shall take place prior to any final map being recorded or, where a map is not being processed, prior to issuance of a building permit(s) for such parcel or units. The housing agreement shall be binding on all future owners and successors in interest.

The following specific items shall be addressed in the housing agreement:

1. **Continued Affordability of Qualifying Units:** The housing agreement shall include the procedures and mechanisms proposed by the developer to maintain the continued affordability of all affordable housing units, whether rental or ownership units. An applicant shall agree to, and the City shall ensure, continued affordability of all very low and low income units that qualified the applicant for the award of the density bonus for a minimum of thirty (30) years.
2. **Rental Units:** Rents for the low income and moderate income qualifying units shall be set at an affordable rent as defined in Section 10-12-3. The housing agreement shall contain procedures for establishing affordable rent, filling vacancies, maintaining the units for eligible tenants, verifying household incomes, and providing annual reports necessary to demonstrate compliance with this section.
3. **Owner occupied Units:** Owner-occupied qualifying units shall be available at an affordable housing sales price as defined in Section 10-12-3.
4. **Very Low Income/Lower Income Units:** Units shall be sold to very low or lower income households who shall occupy the units as their principal residence. The purchaser of each affordable housing unit shall execute an instrument or agreement approved by the City and to be recorded against the property, restricting the sale of the affordable housing units to very low and lower income households for a minimum of thirty (30) years.
5. **Moderate Income Units (condominium development):** The initial sale of a unit within an affordable condominium development, as defined in Section 1351 of the California Civil Code, shall be restricted to moderate income households. The owner shall occupy the unit and shall execute an instrument or agreement to be recorded against the property, which provides for equity-sharing as set forth in Government Code Section 65915 when and if the unit is sold.

10-12-13: **VIOLATION OF AFFORDABLE HOUSING COST REQUIREMENTS:** In the event it is determined that rents in excess of those allowed by operation of this Chapter have been charged to a tenant residing in an affordable rental unit, the City may take the appropriate legal action to recover, and the rental unit owner shall be obligated to pay to the tenant (or to the City in the event the tenant cannot be located), any excess rent charges. In the event it is determined that a sales price in excess of that allowed by operation of this Chapter has been charged to an income-eligible household purchasing an affordable ownership unit, the City may take the appropriate legal action to recover, and the affordable residential unit seller shall be obligated to pay to the purchaser (or to the City in the event the purchaser cannot be located), any sales proceeds determined to be in excess of the affordable price.