

ORDINANCE NO. O-2026-10

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PLACENTIA, CALIFORNIA, AMENDING TITLE 23 (ZONING) OF CHAPTER 23.23 (DENSITY BONUS) OF THE PLACENTIA MUNICIPAL CODE IN ACCORDANCE WITH STATE LAW

City Attorney's Summary

This Ordinance amends Title 23 (Zoning) Chapter 23.23 (Density Bonus) of the Placentia Municipal Code regarding density bonus regulations in accordance with state law.

WHEREAS, in 1992, the City Council added Chapter 23.23 to the Placentia Municipal Code adopting regulations in connection with density bonus; and

WHEREAS, Chapter 23.23 was revised in its entirety in 2002 by Ordinance No. O-2002-05; and

WHEREAS, since the adoption of Ordinance No. O-2002-05, the state has made numerous changes to density bonus laws and regulations; and

WHEREAS, this current revision to Chapter 23.23 is to update the City's provisions and to be in line with state law regulations relating to density bonus projects; and

WHEREAS, this Ordinance provides additional density bonus units over and above state law requirements for projects located in designated areas that are well-served by transit, infrastructure, and community amenities; and

WHEREAS, on May 12, 2026, the Planning Commission of the City of Placentia held a duly noticed public hearing at which time it considered all evidence presented, whether written or oral; and

WHEREAS, after the close of the public hearing the Planning Commission recommended that the City Council adopt this Ordinance; and

WHEREAS, on June 16, 2026, the City Council of the City of Placentia held a duly noticed public hearing at which time it considered all evidence presented, whether written or oral; and

WHEREAS, the City desires to amend its regulations to follow with state law and provide for additional incentives for density bonus projects located in designated areas that are well-served by transit, infrastructure, and community amenities.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PLACENTIA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Title 23 (Zoning) Chapter 23.23 (Density Bonus) of the Placentia Municipal Code is hereby amended in its entirety and replaced with new Chapter 23.23 as set forth in Exhibit "A" attached hereto and incorporated herein by reference.

SECTION 2. CEQA. This Ordinance is exempt from CEQA under the common sense exemption of CEQA Guidelines section 15061(b)(3) which provides that CEQA does not apply where it can be seen with certainty that the project will not have any significant impacts on the environment. This Ordinance sets the framework for future projects involving density bonus, which will require separate CEQA analysis and as such, does not have a significant impact on the environment.

SECTION 3. Effective Date. This Ordinance shall take effect on the 31st day after adoption.

SECTION 4. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance, or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause, or phrase be declared unconstitutional.

SECTION 5. Certification. The City Clerk shall certify the passage of this Ordinance and shall cause the same to be entered in the book of original ordinances of said City; shall make a minute passage and adoption thereof in the records of the meeting at which time the same is passed and adopted; and shall, within fifteen (15) days after the passage and adoption thereof, cause the same to be published as required by law, in a publication of general circulation.

INTRODUCED at a regular meeting of the City Council of the City of Placentia held on the 16th day of June 2026

PASSED, APPROVED AND ADOPTED this 30th day of June 2026.

Chad Wanke

Chad P. Wanke, Mayor

ATTEST:

Robert McKinnell

Robert S. McKinnell, City Clerk



STATE OF CALIFORNIA
COUNTY OF ORANGE

I, Robert S. McKinnell, City Clerk of the City of Placentia, do hereby certify that the foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Placentia, held on the 16th day of June 2026, and was finally adopted at a regular meeting held on the 30th day of June 2026, by the following vote:

AYES:	COUNCILMEMBERS:	Hummer, Kirwin, Smith, Yamaguchi, Wanke
NOES:	COUNCILMEMBERS:	None
ABSENT:	COUNCILMEMBERS:	None
ABSTAIN:	COUNCILMEMBERS:	None

Robert McKinnell

Robert S. McKinnell, City Clerk

APPROVED AS TO FORM:

Christian Bettenhausen

Christian L. Bettenhausen, City Attorney

Exhibit A: Chapter 23.23 (Density Bonus) of the Placentia Municipal Code is hereby Amended in its entirety and replaced with new Chapter 23.23

EXHIBIT A:

**CHAPTER 23.23 (DENSITY BONUS) OF THE PLACENTIA MUNICIPAL CODE IS
HEREBY AMENDED IN ITS ENTIRETY AND REPLACED WITH NEW CHAPTER
23.23:**

Chapter 23.23

AFFORDABLE HOUSING DENSITY BONUS

Sections

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23.23.010. Purpose.

In accordance with California Government Code Sections 65915, et seq., this Chapter specifies how compliance with State Density Bonus Law will be implemented. Specifically, the purpose of this Chapter is to provide density bonuses, incentives, concessions, and waivers of development standards for the production of housing for very low-, low-, and moderate-income households, senior households, provision of daycare facilities, student housing, and donations of land, and for other housing types as provided by state law. In enacting this Chapter, it is also the intent of the City to implement the goals, objectives, and policies of the City's Housing Element of the General Plan.

23.23.020. Definitions.

The definitions found in California Government Code Section 65915, as amended from time to time, ("State Density Bonus Law") shall apply to the terms contained in this Chapter. "Incentives" include "concessions" as defined in State Density Bonus Law.

23.23.030. Application Requirements.

An applicant for a "housing development" as defined in State Density Bonus Law shall be eligible for a density bonus and other regulatory benefits that are provided by State Density Bonus Law when the applicant seeks and agrees to provide housing as specified in Section 23.23.040, or successor provisions. The density bonus calculations shall be made in accordance with Section 23.23.050.

The granting of a density bonus, incentive, or concession, pursuant to this Chapter, shall not be interpreted, in and of itself, to require a general plan amendment, development code amendment, zone change, other discretionary approval, or the

waiver of a City ordinance or provisions of a City ordinance unrelated to development standards.

All requests for density bonuses, incentives, parking reductions, and waivers for a housing development shall be filed with and on a form provided by the Director of Development Services, or their designee, concurrently with the filing of the planning application for the first discretionary or ministerial permit required for the housing development, whichever permit is earliest. The applicant shall be informed whether the application is complete consistent with Government Code Section 65943.

The application shall include the required fee and the following minimum information:

For a requested density bonus.

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.

Identification as to the which subparagraph of Government Code Section 65915(b)(1) the housing development qualifies for a density bonus and reasonable documentation demonstrating that the housing development is eligible for a bonus under that subparagraph. For housing developments that are located within the areas described in Section 23.23.060, the additional bonus in Section 23.23.060 applies.

Where the housing development is seeking an additional bonus, the subparagraph of Government Code Section 65915(v)(1) under which the housing development qualifies for an additional density bonus and reasonable documentation demonstrating that the housing development is eligible for the additional bonus under that subparagraph.

A tentative map or preliminary site plan, drawn to scale, showing the number and location of all proposed units, designating the location of proposed affordable units and density bonus units.

The zoning and general plan designations and assessor's parcel number(s) of the housing development site.

A description of all dwelling units existing on the site in the five-year period preceding the date of submittal of the application, including whether occupied, vacant or demolished. Identify if any of the units have been rented in the five-year period and if subject to any form

of rent control through a public entity's valid exercise of its police power, subject to a recorded covenant ordinance or law restricting rents to levels affordable to households of lower or very low income or occupied by lower or very low income households.

If dwelling units on the site are currently rented, income and household size of all residents of currently occupied units, if known, as well as the size and number of bedrooms for each of the units. If any dwelling units on the site were rented in the five-year period 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, as well as the size and number of bedrooms for each of the units.

The phasing of the construction of the affordable housing units in relation to the nonrestricted units in the housing development.

If a density bonus is requested for a land donation, the location of the land to be dedicated, proof of site control, and reasonable documentation that each of the requirements included in Government Code Section 65915 (g) can be met.

Requested incentives/concessions. Incentives or concessions are those defined by State Density Bonus Law. The number of incentives or concessions that may be requested shall be based upon the number the applicant is entitled to pursuant to State Density Bonus Law. The application shall include the following minimum information for each incentive or concession requested, shown on a site plan (if appropriate):

The City's usual regulation and the requested regulatory incentive or concession.

Except where mixed-use zoning is proposed as a concession or incentive, reasonable documentation to show that any requested incentive will result in identifiable and actual cost reductions to provide for affordable housing costs or rents.

If approval of mixed-use zoning is proposed, reasonable documentation that nonresidential land uses will reduce the costs of the housing development, that the nonresidential 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, and that mixed-use zoning will provide for affordable housing costs and rents.

Requested waivers. For each waiver requested, the applicant shall include, shown on a site plan, and shown for each existing or proposed parcel (*if*

applicable), the City's required development standard and the requested waiver of the specific development standard.

Parking reductions. If a housing development is eligible for a density bonus pursuant to State Density Bonus Law, the applicant may request an on-site vehicular parking ratio specified in Government Code Section 65915(p). An applicant may request this parking reduction in addition to the incentives and waivers permitted by paragraphs (2) and (3) of this subsection. The application shall include a table showing parking required by the zoning regulations, parking proposed under State Density Bonus Law, paragraph under Government Code Section 65915(p) (or other statute) under which the project qualifies for the parking reduction, and reasonable documentation that the project is eligible for the requested parking reduction.

Density bonus or incentive for a childcare facility in a housing development. The application shall include reasonable documentation that all of the requirements included in Government Code Section 65915(h) can be met.

Density bonus or incentive for a condominium conversion. The application shall include reasonable documentation that all of the requirements included in Government Code Section 65915.5 can be met.

23.23.040. Eligibility.

Except as set forth in subsection B, a housing development project shall be eligible for a density bonus and additional incentives, concessions, waivers or reductions of development standards, and parking ratios as set forth in this Section.

The City will grant one density bonus, the amount of which shall be specified in Section 23.23.050, to the applicant of a housing development when the applicant seeks and agrees to construct a housing development project that will, excluding any units permitted by the density bonus awarded pursuant to this Chapter, contain at least any one of the conditions defined by Government Code Section 65915(b)(1).

Land Donations. An applicant for a tentative subdivision map, parcel map, or other residential development approval that donates land to the City in accordance with Government Code Section 65915(g) shall be eligible for a density bonus in accordance with the terms and conditions of Government Code Section 65915(g).

Housing Development with Childcare Facility. An applicant that proposes to construct a housing development that conforms to the requirements of subsection (A)(1) and that also includes a childcare facility that will be located on the premises of, as part of, or adjacent to the project shall be

eligible for a density bonus in accordance with the terms and conditions of Government Code Section 65915(h).

Notwithstanding subsection A, an applicant that submits an application for housing development, including a planning entitlement or permit, shall be ineligible for a density bonus or any other incentive or concession under this Chapter if the housing development is proposed on a property that includes a parcel or parcels that contains: (1) rental dwelling units that 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 or families of lower or very low income; (2) r subject to any other form of State or local rent or price control; or (3) units occupied by lower or very low-income households, unless the proposed housing development replaces those units, and either of the following applies:

The proposed housing development, inclusive of the units replaced pursuant to this Section, contains affordable units at the percentages set forth in Section 23.23.050(B).

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

For purposes of this Section, "replace" shall mean either of the following:

If any dwelling units described in this Section 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 subsection B 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, the replacement units shall be subject to a recorded affordability restriction for at least 55 years in accordance with Government Code Section 65915(c)(1). If the proposed development is for-sale units, the units replaced shall be subject to Government Code Section 65915(c)(2).

If all dwelling units described in subsection B 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, the replacement units shall be subject to a recorded affordability restriction for at least 55 years in accordance with Government Code Section 65915(c)(1). If the proposed development is for-sale units, the units replaced shall be subject to Government Code Section 65915(c)(2).

Notwithstanding paragraphs (1) and (2), for any dwelling unit described in subsection A that is or was, within the five-year period preceding the application, or a rental unit subject to any other form of State or local rent or price control, and that is or was occupied by persons or families above lower income, replacement units must 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 shall be replaced subject to Government Code Section 65915(c)(2).

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

23.23.050. Density Bonus.

- A. An eligible applicant under Section 23.23.040 may seek a density bonus in the amounts set forth in this Section and in accordance with the procedures set forth in Section 23.23.050. Applicants may request a lesser percentage of density increase than that which is available for housing development under this Section, including, but not limited to, no increase in density; however, the City shall not be required to similarly reduce the number of units required to be dedicated pursuant to this Section and Government Code Section 65915(b).
- B. **Determining Density Bonus Percentage.** The number of density bonus units to be granted shall be determined as follows:

For housing developments that meet the criteria of Government Code Section 65915(b)(1)(A), 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

For housing developments that meet the criteria of Government Code Section 65915(b)(1)(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

Percentage Very Low-Income Units	Percentage Density Bonus
10	32.5
11	35
12	38.75
13	42.5
14	46.25
15	50

For housing developments that do not meet the criteria set forth in subsections 1 and 2, above, the density bonus shall be calculated as follows:

For housing developments that meet the criteria of Government Code Section 65915(b)(1)(C), the density bonus shall be 20% of the number of senior housing units.

For housing developments that meet the criteria of Government Code Section 65915(b)(1)(E), the density bonus shall be 20% of the number of the type of units giving rise to a density bonus under that paragraph.

For housing developments that meet the criteria of Government Code Section 65915(b)(1)(F), the density bonus shall be calculated as follows:

Percentage Very Low-Income Units	Percentage Density Bonus
20	35
21	38.75
22	42.5
23	46.25
24	50

For 100% Affordable Housing Projects or housing developments that meet the criteria of Government Code Section 65915(b)(1)(G), the following shall apply:

- i. Except as otherwise provided in clause (ii), the density bonus shall be 80% 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 or is located in a very low vehicle travel area in a designated county, there shall be no maximum control on density.

For housing developments that meet the criteria of Government Code Section 65915(b)(1)(D), 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

Percentage Moderate-Income Units	Percentage Density Bonus
42	42.5
43	46.25
44	50

Housing developments that meet the criteria of Government Code Section 65915(b)(1) are eligible for an additional density bonus as set forth in this subsection.

- a. To be eligible for an additional density bonus, a housing development shall meet the following requirements:
 - i. The resulting housing development would not restrict more than 50% of the total units to moderate-income, lower income, or very low-income households;
 - ii. The housing development includes additional rental or for-sale units affordable to very low-income households or moderate-income households, and meets any of the following requirements:
 1. Conforms to the requirements of Government Code Section 65915(b)(1)(A) and provides 24% of the total units to lower income households.
 2. Conforms to the requirements of Government Code Section 65915(b)(1)(B) and provides 15% of the total units to very low-income households.
 3. Conforms to the requirements of Government Code Section 65915(b)(1)(D) and provides 44% of the total units to moderate-income households.
- b. For housing developments that meet the criteria above, the additional density bonus shall be calculated using one of the following tables:

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

Additional Percentage Moderate-Income Units	Additional Percentage Density Bonus
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35
12	38.78
13	42.5
14	46.25
15	50

- b. The increase required by this subsection shall be in addition to any increase to density granted by Section 23.23.050(B)(1-4).
- c. The additional density bonus granted under this subsection shall be calculated using the number of units excluding any density bonus awarded by this Chapter.

An applicant for a tentative subdivision map, parcel map, or other residential development approval that donates land to the City in accordance with Government Code Section 65915(g) shall be entitled to a density bonus as provided by Government Code Section 65915(g).

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, zoning change, or other discretionary approval.

C. Calculating Base Density

1. In residential districts, the maximum allowable residential or base density shall be determined using dwelling units per acre. All base density calculations resulting in fractional units will be rounded up to the next whole number.
2. Except as provided in subsection (3) below, in nonresidential districts which do not provide a dwelling-units-per-acre standard for density, the maximum allowable residential or base density shall be calculated 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. Applicants may provide a base density study which the City shall accept, 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, except those development standards or requirements that may be modified by waiver or concession to accommodate the bonus units, in the proposed project as in the study.
 - c. All base density calculations resulting in fractional units will be rounded up to the next whole number.
3. Notwithstanding subsection (C)(2), for any housing development subject to tiered development standards, the maximum allowable residential density shall be based on the maximum number of units allowed for the selected tier in the zoning district. The maximum allowable residential or base density shall be calculated 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. Applicants may provide a base density study which the City shall accept, 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, except those development standards or requirements that may be modified by waiver or concession to accommodate the bonus units, in the proposed project as in the study.

23.23.060. Special Geographic Areas.

A. **Purpose and Intent.** The purpose of this Section is to implement localized housing incentives that further the City's General Plan and Specific Plan objectives by granting an additional density bonus in designated areas that are well-served by transit, infrastructure, and community amenities. The additional bonus established herein is intended to supplement, and shall be calculated in addition to, the density bonuses available under Section 23.23.050 and Government Code § 65915 et seq.

B. **Applicability.**

1. Qualifying Areas. The additional density bonus established by this Section applies only to parcels located within the following designated geographic areas, as each is delineated on maps adopted by City Council resolution and maintained by the Development Services Department:
 - a. Old Town Placentia (Chapter 23.112);
 - b. Transit-Oriented Development (TOD) Packing House District (Chapter 23.111); and
 - c. Chapman Corridor Specific Plan Area (Chapter 23.113).

C. **Additional Local Density Bonus.**

1. Amount. In addition to any density bonus calculated pursuant to Section 23.23.050, a housing development on a site located wholly within a designated geographic area listed in Subsection B(1) shall be entitled to an additional ten percent (10%) increase in residential density ("Local Area Bonus").
2. Stackability and Order of Operations.
 - a. The Local Area Bonus shall be applied after the base (maximum allowable) residential density is established under State law and local zoning, and after the State Density Bonus is calculated pursuant to Section 23.23.050.
 - b. The Local Area Bonus is additive to the State Density Bonus but does not alter State-law thresholds for incentives/concessions, waivers, or parking ratios, which shall continue to be governed by Government Code Section 65915 and Section 23.23.030.
3. Rounding. Fractional units resulting from application of the Local Area Bonus shall be rounded up to the next whole number, consistent with the rounding method applied for the State Density Bonus under Section 23.23.050.

23.23.070. Application review process.

- A. All requests under State Density Bonus Law shall be part of the planning application and shall be applied for, reviewed, and acted upon concurrently with

the planning application by the approval body with authority to approve the development, within the timelines prescribed by California Government Code Section 65950 et seq. or other statute. Appeals of the planning application in accordance with the requirements of Section 23.93.050 shall include all requests under State Density Bonus Law if appeals are authorized for the discretionary or ministerial permit applied for.

B. To ensure that an application for a housing development conforms with the provisions of State Density Bonus Law, the staff report presented to the decision-making body shall state whether the application conforms to the following requirements of State Density Bonus Law, as applicable:

1. The housing development provides the housing required by State Density Bonus Law to be eligible for a density bonus and any incentives, parking reduction, or waivers requested, including housing required to replace units rented or formerly rented to very low- and low-income households as required by California Government Code Section 65915(c)(3).
2. If applicable, the housing development provides the housing required by State Density Bonus law to be eligible for an additional density bonus under Government Code Section 65915(v)(1).
3. If an incentive is requested, reasonable documentation has been presented showing that any requested incentive will result in identifiable and actual cost reductions to provide for affordable housing or costs or rents; except that, if a mixed-use development is requested, the application must instead meet all of the requirements of Government Code Section 65915(k)(2).
4. If a waiver is requested, the development standards for which a waiver is requested would have the effect of physically precluding the construction of the housing development at the densities or with the incentives permitted.
5. The housing development is eligible for any requested parking reductions under Government Code Section 65915(p) or other statute.
6. If the density bonus is based all or in part on donation of land, the requirements of Government Code Section 65915(g) have been met.
7. If the density bonus or incentive is based all or in part on the inclusion of a child care facility or condominium conversion, the requirements included in Government Code Section 65915(h) or 65915.5, as appropriate, have been met.

C. The decision-making body shall grant an incentive requested by the applicant unless it makes a written finding, based upon substantial evidence, of any of the following:

1. The proposed incentive does not result in identifiable and actual cost reductions to provide for affordable housing costs, as defined in Health and Safety Code Section 50052.5; or for affordable rents, as defined in Health and Safety Code Section 50053; or
 2. The proposed incentive would be contrary to state or federal law; or
 3. The proposed incentive would have a specific, adverse impact upon the public health or safety or on any real property that is listed in the California Register of Historic Resources, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the housing development unaffordable to low- and moderate-income households. For the purpose of this subsection, "specific, adverse impact" means a significant, quantifiable, direct and unavoidable impact, based on objective, identified, written public health or safety standards, policies, or conditions as they existed on the date that the application for the housing development was deemed complete as defined in Government Code Section 65589.5.
- D. The decision-making body shall grant the waiver of development standards requested by the applicant unless it makes a written finding, based upon substantial evidence, of any of the following:
1. The proposed waiver would be contrary to state or federal law; or
 2. The proposed waiver would have an adverse impact on any real property listed in the California Register of Historic Resources; or
 3. The proposed waiver would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the housing development unaffordable to low- and moderate-income households. For the purpose of this subsection, "specific, adverse impact" means a significant, quantifiable, direct and unavoidable impact, based on objective, identified, written public health or safety standards, policies, or conditions as they existed on the date that the application for the housing development was deemed complete as defined in Government Code Section 65589.5.
- E. If a child care center complies with the requirements of Government Code Section 65915(h), the decision-making body may deny a density bonus or incentive that is based on the provision of child care facilities only if it makes a written finding, based on substantial evidence, that the City already has adequate child care facilities.
- F. A request for minor modification of an approved density bonus housing plan may be granted by the Director of Development Services, or their designee, if the modification substantially complies with the original density bonus housing plan

and conditions of approval. Other modifications to the density bonus housing plan shall be processed in the same manner as the original plan.

23.23.080. Density bonus housing agreement.

If a density bonus, incentive, parking reduction, or waiver is approved pursuant to this Chapter, the applicant shall enter into a binding affordable housing agreement or restrictive covenant, as described below, with the City, which sets forth the conditions and guidelines to be met in the implementation of State Density Bonus Law and that ensures compliance with all of the provisions of this Chapter and State Density Bonus Law. The agreement will also establish specific compliance standards and remedies available to the City upon failure by the applicant to comply with State Density Bonus Law, this Chapter, or the affordable housing agreement.

For rental projects, the applicant shall enter into an affordable housing agreement with the City, running with the land, in a form approved by the City Attorney, to be executed by the City Administrator, or their designee. The agreement shall require the continued affordability of all rental units that qualified the applicant for the receipt of the density bonus, incentive, waiver, or parking reduction for a minimum of fifty-five (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; shall identify the type, size and location of each affordable unit; shall specify the eligible occupants; shall specify phasing of the affordable units in relation to the market-rate units; and shall contain other relevant provisions approved by the City Attorney. Rents for the lower income density bonus units shall be set at an affordable rent as defined in State Density Bonus Law.

For for-sale projects, the applicant shall enter into an affordable housing agreement with the City, running with the land, in a form approved by the City Attorney, to be executed by the City Administrator, or their designee. The affordable housing agreement shall require that, the initial purchasers of those for-sale units that qualified the applicant for the receipt of the density bonus, incentive, waiver, or parking reduction are persons and families of very low, low or moderate income, as applicable. The agreement shall include an equity sharing agreement consistent with State Density Bonus Law, unless it is in conflict with the requirements of another public funding source or law. If any for-sale unit is not purchased by an income-qualified household within one-hundred eighty (180) days after the issuance of the certificate of occupancy, then the unit(s) must be sold pursuant to a contract that satisfies the requirements of Revenue and Taxation Code Section 402.1(a)(10) to a qualified non-profit housing corporation as defined in State Density Bonus Law and that the units are offered at an affordable housing cost, as that cost is defined in Health and Safety Code Section 50052.5. and shall contain other relevant provisions approved by the City Attorney.

Where a density bonus, waiver or parking reduction is provided for a market-rate senior housing development, the applicant shall enter into a restrictive covenant with the City, running with the land, in a form approved by the City Attorney, to be executed by the Director of Development Services, or their designee, to require the housing development to be operated as "housing for older persons" consistent with state and federal fair housing laws.

The executed affordable housing agreement shall be recorded against the housing development prior to final map approval, or, where a map is not being processed, prior to issuance of building permits for the housing development, whichever is earliest. The affordable housing agreement shall be binding on all future owners and successors in interest.

23.23.090. Density bonus calculations.

- A. In determining the total number of units to be granted, 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.
- B. When calculating the number of affordable units needed to qualify for a given density bonus, any fractions of affordable dwelling units shall be rounded up to the next whole number.
- C. Except where a housing development is eligible for an additional bonus pursuant to Government Code Section 65915(v), each housing development is entitled to only one density bonus. If a housing development qualifies for a density bonus under more than one category, the applicant shall identify the category under which the density bonus is requested to be granted.
- D. In determining the number of affordable units required to qualify a housing development for a density bonus pursuant to State Density Bonus Law, units added by a density bonus are not included in the calculations.
- E. The applicant may elect to accept a lesser percentage of density bonus than the housing development is entitled to, or no density bonus, but no reduction will be permitted in the percentages of affordable units required by State Density Bonus Law. Regardless of the number of affordable units, no housing development shall be entitled to a density bonus greater than what is authorized under State Density Bonus Law.
- F. Nothing in this Chapter requires the provision of direct financial incentives from the City for the housing development, including, but not limited to, the provision of financial subsidies, publicly owned land, fee waivers, or waiver of dedication requirements. The City, at its sole discretion, may choose to provide such direct financial incentives.

23.23.100. Development standards.

Building permits and final inspections or certificates of occupancy shall be issued concurrently for the market rate units and for any affordable units that qualified the project for a density bonus, incentive, waiver, or parking reduction, so that the affordable units comprise the required percentage of total units.

Affordable units shall be comparable in exterior appearance and overall quality of construction to market rate units in the same housing development. Interior finishes and amenities may differ from those provided in the market rate units, but neither the workmanship nor the products may be of substandard or inferior quality as determined by the City.

To comply with fair housing laws, the affordable units shall contain the same proportional mix of bedroom sizes as the market-rate units. In mixed-income buildings, the occupants of the affordable units shall have the same access to the common entrances and to the common areas, parking, and amenities of the project as the occupants of the market-rate housing units, and the affordable units shall be located throughout the building and not isolated on one floor or to an area on a specific floor.

23.23.110. Density bonus for commercial development.

A. The following definitions shall apply to this Section 23.23.110:

1. "Commercial development" means a development project for nonresidential and nonindustrial uses.
2. "Commercial development bonus" means modification of development standards mutually agreed upon by the City and a commercial developer and provided to a commercial development eligible for such a bonus under subparagraph (C). Examples of a commercial development bonus include an increase in floor area ratio, increased building height, or reduced parking.

"Partnered housing agreement" means an agreement approved by the City between a commercial developer and a housing developer identifying how the commercial development will provide housing available at an affordable ownership cost or affordable rent. A partnered housing agreement may consist of the formation of a partnership, limited liability company, corporation, or other entity recognized by the state in which the commercial developer and the housing developer are each partners, members, shareholders, or other participants, or a contract between the commercial developer and the housing developer for the development of both the commercial developer and the housing development.

B. When an applicant proposes to construct a commercial development and has entered into a partnered housing agreement approved by the City, the City shall grant a commercial development bonus mutually agreed upon by the developer and the City. The commercial development bonus shall not include a reduction or

waiver in fees imposed on the commercial development to provide for affordable housing.

C. The partnered housing agreement shall include all of the following provisions:

1. The housing development shall be located either: (i) on the site of the commercial development; or (ii) on a site within the City that is within one-half mile of a major transit stop, as defined in Public Resources Code Section 21155, and is in close proximity to public amenities, including schools and employment centers.
2. At least thirty percent (30%) of the total units in the housing development shall be made available at an affordable ownership cost or affordable rent to low-income households, or at least fifteen percent (15%) of the total units in the housing development shall be made available at an affordable ownership cost or affordable rent to very low-income households.
3. The commercial development must agree either to directly build the affordable housing units, donate a site consistent with the requirements of Government Code Section 65915(g) for the development of the affordable housing units, or make a cash payment to the housing developer for the development of the affordable housing units.

D. An approved partnered housing agreement shall be described in the City's Housing Element annual report as required by Government Code Section 65915.7(k).

23.23.120. Interpretation.

If any portion of this Chapter conflicts with State Density Bonus Law or other applicable state law, state law shall supersede this Chapter. Any ambiguities in this Chapter shall be interpreted to be consistent with State Density Bonus Law. Statutory references in this ordinance include successor provisions.