

## Chapter 18.26: Residential Density Bonus

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### 18.26.010 Purpose

The purpose of this chapter is to provide incentives, consistent with State law, for the construction of housing units that are affordable to very-low, low-, and moderate-income households. A density bonus is an increase over the otherwise maximum residential density allowable under the Zoning Ordinance and the General Plan. It provides developers an opportunity to increase the number of units within a proposed residential development in exchange for including within the project a specified number of units that are affordable to very low-, low-, or moderate-income persons and families. The density bonus provides a private market incentive to encourage the development of affordable housing in Redding. State law also allows the City to provide incentives other than, or in addition to, an increase in density if requested by an applicant. Accordingly, the purposes of this chapter are to:

- A. **Establish procedures** for allowing an increase in density above the maximum residential density allowed by the General Plan and Zoning Ordinance.
- B. **Provide for flexibility** in applying zoning regulations and development standards in order to facilitate the development of affordable housing.
- C. **Provide incentives** to developers to encourage the inclusion of affordable housing within residential projects.
- D. **Implement the goals and policies** of the General Plan relative to providing housing opportunities and meeting community housing needs.

### **18.26.020 Incorporation of State Regulations**

The density bonus provisions of California Government Code Sections 65915–65918 (State Density Bonus Law), as may be amended from time to time, are incorporated by reference into this chapter. In instances where the provisions of State Density Bonus Law are more restrictive than this chapter, the City reserves the right to review applications for a density bonus in accordance with California Government Code Sections 65915–65918. Pursuant to state law, 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, or rezone.

### **18.26.030 Definitions**

For the purposes of this chapter, the following words and phrases shall have the following meanings:

- A. **"Affordable Housing Agreement"** is defined as a legally binding agreement between a developer and the City to ensure that the density bonus requirements of this Chapter are satisfied. The agreement establishes the number and type of affordable units, affordability tenure, and the terms and conditions of affordability.
- B. **"Affordable Housing Unit"** is defined as a housing unit, whether for rent or purchase, that is reserved under the terms of this chapter for very low-, low-, or moderate-income individuals or families as defined in this section and whose total housing costs will be at an affordable rent or sales price as determined using the methodology contained in California Code of Regulations (25 CCR Sections 6918 and 6920, respectively). Total housing costs for rentals generally include rent, utilities, and any fees and service charges levied by the landlord. Total housing costs for ownership units include, but are not limited to, principal, interest, property taxes, insurance, utilities, homeowner association fees, and an allowance for maintenance costs.
- C. **"Child Care Facility"** is defined as 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.
- D. **"Density Bonus"** is defined as an increase in density over the otherwise maximum allowable residential density under the applicable General Plan designation and or zoning district as of the date of filing of a request for a density bonus with the City.
- E. **"Development Standard"** is defined as the site, development, or construction standards and/or conditions of approval that apply to a residential development.

- F. **"Incentive"** is defined as a reduction in any site development standard or a modification of Zoning Code requirements or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission. One or more incentives can be requested by the applicant in accordance with Section 18.26.070. The term "incentive" includes the term "concession" as that term is used in California Government Code Section 65915(k)(1).
- G. **"Low-Income"** is defined as less than 80 percent of the area median income as defined by Section 50079.5 of the California Health and Safety Code.
- H. **"Low-Income Unit"** is defined as a unit with an affordable rent or payment that does not exceed 35 percent of 110 percent of area median income adjusted for family size appropriate for the unit as established by the State Department of Housing and Community Development.
- I. **"Market-Rate Unit"** is defined as a dwelling unit where the rental rate or sales price is not restricted either by this chapter or by requirements imposed through other local, state, or federal affordable housing programs.
- J. **"Moderate-Income"** is defined as less than 120 percent of the area median income as defined in Section 50093 of the California Health and Safety Code.
- K. **"Moderate-Income Unit"** is defined as a unit with an affordable rent or payment that does not exceed 35 percent of 110 percent of area median income adjusted for family size appropriate for the unit as established by the State Department of Housing and Community Development.
- L. **"Very Low-Income"** is defined as less than 50 percent of the area median income as defined in Section 50105 of the California Health and Safety Code.
- M. **"Very Low-Income Unit"** is defined as a unit with an affordable rent or payment that does not exceed 30 percent of 50 percent of the area median income adjusted for family size appropriate for the unit as established by the State Department of Housing and Community Development.
- N. **"Senior Citizen Housing Development"** is defined as a housing project where residency is restricted to persons 62 years of age or older, or 55 years of age or older in a Senior Citizen Housing Development, in accordance with Sections 51.3 and 51.12 of the California Civil Code.
- O. **"Waiver/Modification of Development Standards"** is defined as eliminating or modifying a development standard that would have the effect of physically precluding the construction of a development at the density or with the incentive(s) permitted by this chapter.

### 18.26.040 Eligibility for Density Bonus

A developer of a housing development may qualify for a density bonus and/or at least one other incentive as provided by this chapter if the developer does one of the following and complies with the affordability requirements of this chapter:

- A. **Agrees to construct and maintain at least 5 percent** of the units reserved for very low-income households.
- B. **Agrees to construct and maintain at least 10 percent** of the units reserved for low-income households.
- C. **Agrees to construct and maintain at least 10 percent** of the units in a common interest development (as defined in Section 1351 of the California Civil Code) reserved for 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 as defined in Section 18.26.030 of this chapter.
- E. **Donates land to the City** dedicated for the construction of very low-income units pursuant to Section 18.26.090 of this chapter.
- F. **Includes a qualifying child care facility** as described in Section 18.26.080 of this chapter, in addition to providing housing as described in Items 1 through 3 of this section.

### 18.26.050 Application Requirements

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, which is in addition to information required by an application for a building permit or discretionary permit required by the Zoning Code (i.e., site development permit, use permit, parcel map, tentative subdivision map). If a project is exempt from a discretionary permit under Government Code Sections 65400 and 65582.1 (Senate Bill No. 35 approved by Governor September 29, 2017), a site development permit by director shall be required.

- 1. **A site plan that identifies** all units in the project including the location and size of the affordable/bonus units.
- 2. **A brief narrative describing the project including information on:**
  - a. *The number of units permitted* under the General Plan and Zoning of the property.
  - b. *The total number of units proposed in the project.*
  - c. *The number of affordable and/or senior units proposed* and a breakdown of units proposed for very low-, low-, and moderate-income, senior citizen, and market rate units.

- d. ***The number of bonus units requested*** based on the tables provided in Section 18.26.060 of this chapter.
  - e. ***A phasing plan*** (if applicable) that provides for the timely development of the affordable units proportionate to each proposed phase of development.
  - f. ***Any requested incentive(s) or*** waiver/modification of development standards, including an explanation as to why the requested action is required for the development (*see Section 18.26.070, Incentives and Waiver/Modification of Development Standards*).
3. **The specific financial information and data** (i.e., pro forma) relied upon by the developer that establishes the monetary value of the incentives requested by the developer and a concise statement of how such value was calculated. A clear statement of how the requested incentive(s) is necessary to make the proposed housing development economically feasible shall be provided. The information shall be sufficiently detailed to enable City staff to examine the conclusions reached by the developer.
1. ***Pro Forma Exceptions:*** Projects that consistent with "a" and/or "b" below are exempt from the requirement to provide a pro forma unless the Director determines that the nature of the proposed development warrants submittal of financial information sufficient to demonstrate that the requested incentives are required for the economic viability of providing affordable units in the project:
- a. *Projects with market rate units totaling 25 percent or less of proposed total residential units.*
  - b. *Projects that request modification* (deviations from a standard that does not exceed 25 percent) of the following base zoning district requirements in recognition by the City that they may result in actual and financially sufficient cost reductions:
    - i. Yard setbacks, except where a skyplane or multistory setback is required.
    - ii. Lot coverage.
    - iii. Lot area, width, or depth.
    - iv. Distance between structures (shall not conflict with the Building Code).
    - v. Off-street parking reductions requested by the applicant that comply with the State Density Bonus Law and Section 18.26.070B.6.
4. ***Other pertinent information*** as the Director may require enabling the City to adequately analyze the economic feasibility of the proposed development with respect to the requested incentives. The City may, at its sole discretion, retain a consultant to review the financial

information. The cost of the consultant review shall be borne by the applicant.

**18.26.060 Density Bonus Allowance**

**Density Bonus Allowance.** In calculating the number of units required for very low-, low-, and moderate-income households, the density bonus units shall not be included as illustrated in the following example.

*Example: Proposed construction of 100-unit apartment development. Developer requests a density bonus and agrees to reserve 5 percent of the units as very low-income units.*

*100 units x 5 percent very low-income = 5 very low-income units*

*100 units x 20 percent density bonus = 20 bonus units (of which 5 must be available as very low-income units)*

A development that satisfies all pertinent provisions of this chapter shall be allowed the following applicable density bonuses by right. At the City’s sole discretion, and consistent with state law, nothing in this section shall be construed to prohibit the City from granting a density bonus greater than what is described in this section or from granting a proportionately lower density bonus for developments that do not meet the requirements of this section. In accordance with State Density Bonus Law, an applicant must choose a density bonus from only one affordability category shown below and may not combine categories with the exception of child care facilities or land donation, which may be combined with the available housing density bonus up to a maximum density bonus of 35 percent.

- Very Low-Income.** The density bonus for very low-income units shall be calculated as follows:

Percentage of Very Low-Income Units	Percentage Density Bonus	Percentage of Very Low-Income Units	Percentage Density Bonus
5	20	9	30
6	22.5	10	32.5
7	25	11	35
8	27.5		

- Low-Income.** The density bonus for low-income units shall be calculated as follows:

Percentage of Low-Income Units	Percentage Density Bonus	Percentage of Low-Income Units	Percentage Density Bonus
10	20	16	29
11	21.5	17	30.5
12	23	18	32
13	24.5	19	33.5
14	26	20	35
15	27.5		

3. **Moderate-Income.** The density bonus for moderate-income ownership units shall be calculated as follows:

Percentage of Moderate-Income	Units Percentage Density Bonus	Percentage of Moderate-Income	Units Percentage Density Bonus
10	5	26	21
11	6	27	22
12	7	28	23
13	8	29	24
14	9	30	25
15	10	31	26
16	11	32	27
17	12	33	28
18	13	34	29
19	14	35	30
20	15	36	31
21	16	37	32
22	17	38	33
23	18	39	34
24	19	40	35
25	20		

4. **Senior Citizen Housing Development.** The density bonus for a senior citizen housing development that provides housing for seniors consistent with Section 18.26.040 of this chapter shall be 20 percent.
5. **Child Care Facility.** A project (whether a housing, commercial, or industrial project) is eligible for a density bonus for a child care facility when in compliance with Section 18.26.080 of this chapter and California Government Code Section 65917.5.
6. **Donation of Land.** A project is eligible for the following density bonus for the donation of land for the construction of affordable housing units when in compliance with Section 18.26.090 of this chapter:

Percentage of Very Low-Income Units	Percentage Density Bonus	Percentage of Very Low-Income Units	Percentage Density Bonus
10	15	21	26
11	16	22	27
12	17	23	28
13	18	24	29
14	19	25	30
15	20	26	31
16	21	27	32
17	22	28	33
18	23	29	34
19	24	30	35
20	25		

7. **Conversion of Apartments to Condominiums.** A project is eligible for a 25 percent density bonus for the conversion of apartments to condominiums when in compliance with California Government Code Section 65915.5.

**18.26.070 Incentives and Waiver/Modification of Development Standards**

A. **Eligibility for Incentives.** Incentives are available to a housing developer as follows:

1. **One incentive** for housing developments that: (1) restrict at least 10 percent of the total units to low-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 common interest development or (2) are for Senior Housing.
2. **Two incentives** for housing developments that restrict at least 20 percent of the total units to low-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 common interest development.
3. **Three incentives** for housing developments that restrict at least 30 percent of the total units for low-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 common interest development.

At its sole discretion, the City may grant additional incentives and may approve one or more incentives in cases where bonus units are not being requested in order to facilitate development of affordable housing units.

**B. Available Incentives.** Incentives may include, but are not limited to:

1. *A reduction in site development standards*, such as:
  - a. *Reduced minimum lot sizes and/or dimensions.*
  - b. *Reduced minimum building setbacks.*
  - c. *Reduced minimum common outdoor and/or private outdoor living area.*
  - d. *Increased maximum lot coverage.*
  - e. *Increased maximum building height.*
  - f. *Reduced on-site parking requirements.*
2. *A density bonus greater than the amount allowed by this chapter.*
3. *Other regulatory incentives proposed by the developer or the City* that result in identifiable, financially sufficient, and actual cost reductions.
4. *Approval of mixed-use zoning in conjunction with* the housing development if: (1) commercial, office, industrial, or other land uses will reduce the cost of the housing development; and (2) the commercial, office, industrial, or other land uses are compatible with the housing development and the existing or planned future development in the area where the proposed project will be located.
5. *If an applicant qualifies for a density bonus pursuant to this chapter*, the applicant may request, in addition to any requested incentive(s), that the following parking requirement be applied to the project in place of the City’s current parking requirements. The parking requirement is inclusive of handicapped and guest parking for the entire housing development. On-street parking spaces shall not be utilized to satisfy the parking requirements of this section. Tandem parking arrangements may be requested.

Zero to one bedroom	1 on-site parking space
Two to three bedrooms	2 on-site parking spaces
Four or more bedrooms	2.5 on-site parking spaces

**C. Waiver/Modification of Development Standards.** Pursuant to Government Code Section 65915(e)(1), an applicant may request a waiver or reduction of a development standard that would otherwise physically preclude the construction of a development at the density or with the incentive(s) permitted by this chapter. Such standards, include, but are not necessarily limited to, those described in Section B (Available Incentives) above.

### 18.26.080 Child Care Facilities

- A. **Child Care Facility Density Bonus.** If a density bonus is requested for construction of a child-care facility pursuant to Government Code Section 65915(h), the application shall show the location and square footage of the proposed facility and provide evidence that the requirements of that Government Code Section have been met.

### 18.26.090 Donation of Land

- A. **Donation of Land Density Bonus.** If a density bonus is requested for the donation of land pursuant to Government Code Section 65915(g), the application shall show the location of the land to be dedicated and provide evidence that the requirements of that Government Code Section have been met.

### 18.26.100 General Development Criteria

The following criteria shall apply to housing development projects that have received bonus density units in accordance with this chapter:

- A. **Affordable housing units** shall be constructed concurrently with or prior to non-restricted units unless the City and applicant agree—within the required Affordable Housing Agreement (refer to Section 18.26.110)—to an alternate schedule of development.
- B. **Affordable housing units** should be dispersed throughout the project site, whenever reasonably possible.
- C. **Affordable housing units** should have the same bedroom mix as market rate units in the same development, except that the project sponsor may include a higher number of bedrooms in the affordable dwelling units.
- D. **The exterior design and appearance** of the affordable dwelling units shall be visually indistinguishable from market rate units in the development in terms of overall design and use of materials.

### 18.26.110 Required Findings

The following findings shall be made prior to approving applications for a density bonus and requests for incentives, as provided in this chapter.

- A. **Density Bonus Approval** (no incentives requested).  
*Finding:*
  - 1. The density bonus request meets the requirements of this chapter.

**B. Density Bonus Approval With Incentive(s) or Waiver/Modification of Development Standards.**

*Findings:*

1. The density bonus request meets the requirements of this chapter.
2. The incentive is required in order to provide affordable housing.
3. Approval of the incentive(s) will have no specific adverse impacts upon health, safety, or the physical environment 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 very low-, low-, and moderate-income households.
4. Approval of the incentives is not contrary to state or federal law.

**18.26.120 Affordable Housing Agreement Required**

**Form and Content of Agreement.** The applicant shall submit an Affordable Housing Agreement (AHA) for City review. The form of the AHA will vary, depending on the manner in which the provisions of this chapter are satisfied for a particular development. For example, an affordable housing development may utilize public funding sources that require long-term affordability, monitoring, and reporting consistent with this chapter. In such cases, the requirements of such program may be sufficient, and an AHA may not be required. The form and content of the AHA (or equivalent document) shall be subject to the review and approval of the City Attorney. The AHA shall be recorded as a restriction on the parcel or parcels on which the affordable housing units will be constructed. The approval and recordation of the AHA 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 AHA shall be binding on all future owners and successors in interest. An AHA must include, at a minimum, the following:

- A. **Continued Affordability.** The AHA 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 30 years, or a longer period of time if required by the construction or mortgage-financing assistance program, mortgage-insurance program, or rental-subsidy program. Rents for very-low and low-income units shall be set at an affordable rent as defined in Section 18.26.030 of this chapter. Owner-occupied units shall be available at an affordable housing cost as defined in Section 18.26.030 of this chapter. The following specific items shall be addressed in the AHA:

1. **Ownership Units.** State Density Bonus Law and this chapter require the following ownership housing options and requirements for affordable ownership units:

2. ***Very Low-Income/Low-Income Units.*** Units shall be sold to very low- or low-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 low- income households for a minimum of 30 years.
3. ***Moderate-Income Units (common-interest development).*** The initial sale of a unit within an affordable common interest 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.
4. ***Rental Units.*** The AHA 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.

#### **18.26.130 Administrative Fee**

An administrative fee may be established by the City Council for City review of all materials submitted in accordance with this chapter and for ongoing enforcement of its provisions.

#### **18.26.140 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.