

REPORT TO CITY COUNCIL

DATE: JUNE 10, 2020

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: GREG RAMIREZ, CITY MANAGER

BY: RAMIRO ADEVA, COMMUNITY DEVELOPMENT DIRECTOR
DOUG HOOPER, PLANNING DIRECTOR

SUBJECT: INTRODUCTION OF ORDINANCE NO. 20-451 OF THE CITY OF AGOURA HILLS, CALIFORNIA, AMENDING DIVISION 4 (RESIDENTIAL DENSITY BONUS) OF PART 3 (SPECIAL PERMIT OR REVIEW) OF CHAPTER 6 (REGULATORY PROVISIONS) OF ARTICLE IX (ZONING) OF THE AGOURA HILLS MUNICIPAL CODE TO REVISE REGULATIONS TO CONFORM TO STATE DENSITY BONUS LAW (CALIFORNIA GOVERNMENT CODE SECTION 65915), AND FINDING THE ORDINANCE TO BE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CASE NO. ZOA-01736-2020) (CITY OF AGOURA HILLS, APPLICANT)

Staff is requesting the City Council read by title only and adopt Ordinance No. 20-451 ("Ordinance"). The City is the applicant for this Ordinance (Case No. ZOA-01736-2020), which amends the Agoura Hills Municipal Code to conform to State Density Bonus Law.

The State adopted the "State Density Bonus Law" in 1979 to encourage the development of affordable housing. The State Density Bonus Law was codified in Government Code Section 65915 and has since been amended several times. In part, state law mandates that a city adopt an ordinance that implements the requirements of Government Code Section 65915. The City's Residential Density Bonus Ordinance ("DBO") was adopted to comply with this requirement and has been updated from time to time to reflect changes to state law. The purpose of this proposed Ordinance (Exhibit A) is to update the Agoura Hills Municipal Code in light of recent changes, and possible future changes, to state law.

In 2019, the State amended various housing and land use laws to address the State's significant housing shortage. In an effort to increase housing production, the State Legislature passed several new housing bills, including Assembly Bill ("AB") 1763 (Planning and Zoning, Density Bonus), that were signed into law by Governor Newsom in October 2019. The new laws went into effect on January 1, 2020. At the regular City Council meeting of February 12, 2020, the City Attorney's office presented summaries of the latest housing bills, including AB 1763, and what City actions, if any, are needed to comply with the new laws.

As described in the February 12, 2020, City Council Meeting, AB 1763 revised the State Density Bonus Law to provide strong incentives for developers to build fully affordable housing projects. State law now provides for an 80 percent increase in allowable project density to be granted to a project that preserves 100 percent of the units for lower-income households (i.e. 80 percent or less of the Area Median Income). For all other project types, the maximum density bonus for an eligible density bonus project is a 35 percent increase above the otherwise allowable maximum density.

In addition to an increase in project density, projects that qualify for a density bonus also may request “incentives or concessions” to build these housing projects. An “incentive or concession” is a request to deviate from the City’s otherwise applicable development standards. For example, an applicant might request to deviate from an otherwise applicable setback or height requirement to help make the development of affordable housing more economically feasible. Prior to the passage of AB 1763, projects qualifying for a density bonus were entitled to between one and three “incentives or concessions,” depending on how much of the proposed project would be reserved as affordable housing. Under those provisions, the greater number of units that will be reserved as affordable housing, the more “incentives or concessions” the applicant can request (historically, up to three requests). AB 1763 allows the new category of eligible projects to request *four* “incentives of concessions,” meaning that an applicant for a 100-percent affordable project may request a deviation from four distinct development standards.

AB 1763 also provides that a housing development that qualifies for a density bonus under these new provisions may include up to 20 percent of the total units for moderate-income households (i.e., households that earn between 80 and 120 percent of the Area Median Income), so long as the remaining 80 percent of the total units are reserved for lower-income households.

AB 1763 also updated existing provisions limiting a local agency’s ability to set a minimum parking requirement in some instances. State law now provides that for special needs housing developments or supportive housing developments, a local agency may be required to waive minimum parking requirements altogether.

If adopted, the proposed ordinance would replace the City’s existing Density Bonus Ordinance (Agoura Hills Municipal Code sections 9674.1-9674.10, attached Exhibit B), with updated provisions that are consistent with, and largely cross-reference, State Density Bonus Law (Government Code Section 95915, attached Exhibit “C”). The goal of this more simplified ordinance is to allow for future compliance with potential State Density Bonus Law revisions, while reducing the potential need for frequent local code amendments. At their meeting of March 3, 2020, the City Land Use/Economic Development Committee reviewed the draft ordinance and provided feedback to staff. On May 7, 2020, the Planning Commission held a public hearing and unanimously recommended the City Council approve the Ordinance. Their adopted Resolution is attached as Exhibit D.

The proposed ordinance is consistent with the applicable goals and policies of the City General Plan (Housing Element), as discussed below.

- *Policy H-2.2 Affordable Housing Incentives.* Facilitate the development of affordable housing through regulatory incentives and concessions via the density bonus ordinance, and/or financial assistance. Leverage local funds with outside sources.

The proposed ordinance encourages affordable housing options by providing for additional density bonuses and development concessions or incentives. Specifically, the ordinance would comply with state law, which requires that local agencies provide additional density bonuses and development incentives or concession for those projects that propose 100 percent of the units to be restricted to lower-income households.

- *Goal H-3. Provide Adequate Sites to Achieve a Diversity of Housing.* Provide opportunities for a range of housing types suited to residents of varying lifestyle needs and income levels; and *Policy H-3.1. Variety of Housing Choices.* Provide site opportunities for a full range of housing types, locations, and densities to address the diverse needs of Agoura Hills's residents.

The proposed ordinance encourages production of affordable housing units for lower-income households. These units create housing opportunities in Agoura Hills for a population that is in need of affordable housing and otherwise could not attain housing at market rate.

The Ordinance has been determined to be exempt from the California Environmental Quality Act (CEQA), as there is no possibility that this Ordinance would have a significant impact on the environment pursuant to State CEQA Guidelines Section 15061(b)(3). More specifically, this Ordinance merely incorporates state law into the Agoura Hills Municipal Code, allowing applicants to seek a density bonus pursuant to Government Code Section 65915, as required by state law. The Ordinance does not exempt any future project from CEQA nor does it approve any development project. All projects that are subject to CEQA remain subject to CEQA. A Notice of Exemption has been prepared and will be filed in accordance with CEQA and the State CEQA Guidelines

RECOMMENDATION

Staff respectfully recommends the City Council read by title only, waive further reading, and introduce Ordinance No. 20-451, amending Division 4 (Residential Density Bonus) of Part 3 (Special Permit or Review) of Chapter 6 (Regulatory Provisions) of Article IX (Zoning) of the Agoura Hills Municipal Code, and finding the Ordinance to be exempt from the California Environmental Quality Act.

Attachments: Exhibit A - Ordinance No. 20-451
Exhibit B - Current Residential Density Bonus Ordinance (AHMC Sections 9674.1-9674.10)
Exhibit C - Government Code Section 65915
Exhibit D - Planning Commission Resolution No. 20-1242

ORDINANCE NO. 20-451

AN ORDINANCE OF THE CITY OF AGOURA HILLS, CALIFORNIA, AMENDING DIVISION 4 (RESIDENTIAL DENSITY BONUS) OF PART 3 (SPECIAL PERMIT OR REVIEW) OF CHAPTER 6 (REGULATORY PROVISIONS) OF ARTICLE IX (ZONING) OF THE AGOURA HILLS MUNICIPAL CODE TO REVISE REGULATIONS TO CONFORM TO STATE DENSITY BONUS LAW (CALIFORNIA GOVERNMENT CODE SECTION 65915), AND FINDING THE ORDINANCE TO BE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

WHEREAS, the State Legislature has declared that the lack of housing, including providing for a variety of housing types for all income levels and special needs groups, is a critical problem that threatens the economic, environmental, and social quality of life in California.

WHEREAS, Government Code Section 65583 requires that the City's Housing Element address governmental constraints to the development of housing, including providing for a variety of housing types for all income levels.

WHEREAS, the City Council of the City of Agoura Hills adopted the City's 2013-2021 Housing Element on August 28, 2013.

WHEREAS, Government Code Section 65915 requires that local governments adopt procedures for processing a density bonus application.

WHEREAS, the City's Municipal Code already allows for density bonuses and development concessions, but the City's 2013-2021 Housing Element provides that the City will maintain a local density bonus program consistent with State requirements.

WHEREAS, the Legislature amended Government Code Section 65915 in 2019 to clarify certain provisions of Density Bonus Law, and the City wishes to update the Municipal Code to ensure consistency with state law and clarify how to implement the density bonus program.

THE CITY COUNCIL OF THE CITY OF AGOURA HILLS DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The facts set forth in the recitals of this Ordinance are true and correct.

SECTION 2. Procedural Findings. The City Council of the City of Agoura Hills does hereby find, determine, and declare that:

A. The Planning Commission considered this Ordinance on May 7, 2020, at a duly noticed public hearing, as prescribed by law, at which time the City Staff and interested persons had an opportunity to and did testify either in support of or against this matter.

B. At the conclusion of the Planning Commission hearing and after due consideration of the testimony, the Planning Commission adopted Resolution No. 20-1242, recommending approval of the Ordinance by the City Council.

C. The City Council, at a regular meeting, considered the Ordinance on June 10, 2020, at a duly noticed public hearing, as prescribed by law, at which time the City Staff and interested persons had an opportunity to and did testify either in support or against this matter.

D. Following the public hearing, the City Council considered the entire record of information received at the public hearings before the Planning Commission and City Council.

SECTION 3. Findings. The City Council of the City of Agoura Hills in approving the proposed Municipal Code amendment hereby makes the following findings:

A. This Ordinance is consistent with State Housing Law, the Agoura Hills 2013-2021 Housing Element, and the Agoura Hills General Plan. This Ordinance clarifies the City's density bonus provisions to conform to the requirements of California Government Code Section 65915, as most recently amended by Assembly Bill 1763 during the 2019 legislative session.

B. The proposed Ordinance amends portions of Article IX of the Agoura Hills Municipal Code to conform with State Density Bonus Law and with the goals, policies, programs, and guidelines of the City's General Plan. Specifically, the Ordinance implements the following goals and policies contained in the City's 2013-2021 Housing Element:

Policy H-2.2 Affordable Housing Incentives. Facilitate the development of affordable housing through regulatory incentives and concessions via the density bonus ordinance, and/or financial assistance. Leverage local funds with outside sources.

Goal H-3 Provide Adequate Sites to Achieve a Diversity of Housing. Provide opportunities for a range of housing types suited to residents of varying lifestyle needs and income levels.

Policy H-3.1 Variety of Housing Choices. Provide site opportunities for a full range of housing types, locations, and densities to address the diverse needs of Agoura Hills's residents.

C. The housing developments that would be authorized by this Ordinance would be established and maintained in a manner consistent with the General Plan, specifically the policies described above, and all applicable provisions therein. The proposed ordinance encourages affordable housing options by providing for additional density bonuses and development concessions or incentives. Specifically, the ordinance would comply with state law, which requires that local agencies provide additional density bonuses and development incentives or concession for those projects that propose 100 percent of the units to be restricted to lower-income households. The proposed ordinance encourages production of affordable housing units for lower-income households. These units create housing opportunities in Agoura Hills for a population that is in need of affordable housing and otherwise could not attain housing at market rate.

SECTION 4. Division 4 (Residential Density Bonus) of Part 3 (Special Permit or Review) of Chapter 6 (Regulatory Provisions) of Article IX (Zoning) of the Agoura Hills Municipal Code is hereby amended in its entirety to read as follows:

“Division 4. Residential Density Bonus.

9674.1. Purpose.

The purpose of the provisions of this division is to provide incentives for the production of specific housing types for populations, including, but not limited to, low income, lower income, moderate income, and senior households in accordance with Government Code Section 65915, commonly referred to as the State Density Bonus Law. In enacting this division, it is the intent of the city to facilitate the development of the goals, objectives and policies of the housing element of the city’s general plan.

9674.2. Density bonus provisions.

- A. In addition to any other review required for a proposed housing development, applications for a density bonus shall be filed with the planning director on a form approved by the director. The application shall be filed concurrently with an application for a development plan review or administrative approval. At the time the application is submitted, the applicant shall pay a density bonus application fee, established by resolution of the City Council.
- B. City staff shall process the application for a density bonus in the same manner as, and concurrently with, the application for a development plan review or administrative approval that is required by this Code.
- C. The application shall clearly indicate the number of base units allowed by the City general plan and zoning regulations, the number of density bonus units requested, and the number of affordable units that will be included in the proposed project. The applicant shall submit reasonable documentation to establish eligibility for a requested density bonus, incentives or concessions,

waivers or reductions of development standards, and parking ratios, to the satisfaction of the planning director.

- D. For a housing development qualifying pursuant to the requirements of Government Code Section 65915, the City shall grant a density bonus in an amount specified by Government Code Section 65915. Except as otherwise required by Government Code Section 65915, the density bonus units shall not be included when calculating the total number of housing units that qualifies the housing development for a density bonus. Except as otherwise required by Government Code Section 65915, the amount of the density bonus shall not exceed 35 percent.
- E. For the purpose of calculating the density bonus, the “maximum allowable residential density” shall be the maximum density allowed under the zoning ordinance and land use element of the general plan, or, if a range of density is permitted, the maximum allowable density for the specific zoning range and land use element of the general plan applicable to the project. Where the density allowed under the zoning ordinance is inconsistent with the density allowed under the land use element of the general plan, the maximum density allowed in the general plan shall prevail.
- F. The City shall grant the applicant the number of incentives and concessions required by Government Code Section 65915. The City shall grant the specific concession(s) or incentive(s) requested by the applicant, unless it makes any of the relevant written findings stated in Government Code Section 65915(d). Senior citizen housing developments that qualify for a density bonus shall not receive any incentives or concessions, unless Government Code Section 65915 is amended to specifically require that local agencies grant incentives or concessions for senior citizen housing developments.
- G. Except as restricted by Government Code Section 65915, the applicant for a density bonus may submit a proposal for the waiver or reduction of development standards that have the effect of physically precluding the construction of a housing development incorporating the density bonus and any incentives or concessions granted to the applicant. A request for a waiver or reduction of development standards shall be accompanied by documentation demonstrating that the waiver or reduction is physically necessary to construct the housing development with the additional density allowed pursuant to the density bonus and incorporating any incentives or concessions required to be granted. The City shall approve a waiver or reduction of a development standard, unless it finds that:
 - 1. The application of the development standard does not have the effect of physically precluding the construction of a housing development at the density allowed by the density bonus and with the incentives or concessions granted to the applicant;

2. The waiver or reduction of the development standard would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact;
 3. The waiver or reduction of the development standard would have an adverse impact on any real property that is listed in the California Register of Historical Resources; or
 4. The waiver or reduction of the development standard would be contrary to state or federal law.
- H. The applicant may request, and the City shall grant, a reduction in parking requirements in accordance with Government Code Section 65915(p), as that section may be amended from time to time.
- I. The applicant shall comply with all requirements stated in Government Code Section 65915.
- J. The applicant shall enter into an agreement with the City to ensure the continued affordability of all affordable units or the continued reservation of such units for qualifying senior citizens. Prior to receiving a building permit for any project that receives a density bonus or any incentive, concession, waiver, or reduction of development standards pursuant to this section, such agreement shall be recorded as a covenant against the property.
- K. For any development project that is granted a density bonus or other benefit pursuant to this section, the affordable units that qualify the project as eligible for a density bonus, must be constructed concurrently with or prior to the construction of any market rate units. In addition, the affordable units must be integrated with the market rate units so that there is a mix of affordable and market rate units, if any, in each building of the development project.
- L. An applicant shall not receive a density bonus or any other incentive or concession if the housing development would be excluded under Government Code Section 65915, which includes, but is not limited to, projects that fail to "replace" existing housing units, as required by state law.
- M. The provisions of this subdivision shall be interpreted to fulfill the requirements of Government Code Section 65915. Any changes to Government Code Section 65915 shall be deemed to supersede and govern any conflicting provisions contained herein.
- N. Appeals of any decision of the Planning Commission pursuant to Section 9674.2 shall be heard by the City Council in compliance with Sections 9804.5 through 9804.9 of this article."

SECTION 5. Environmental Findings. The City Council hereby finds, in the exercise of its independent judgment and analysis, that this Ordinance is exempt from the California Environmental Quality Act (CEQA) as there is no possibility that this Ordinance would have a significant impact on the environment pursuant to State CEQA Guidelines Section 15061(b)(3). More specifically, this Ordinance merely incorporates state law, allowing applicants to seek a density bonus pursuant to Government Code Section 65915, as required by state law. This Ordinance does not exempt any future project from CEQA nor does it approve any development project. All projects that are subject to CEQA remain subject to CEQA. A Notice of Exemption has been prepared and will be filed in accordance with CEQA and the State CEQA Guidelines.

SECTION 6. Severability. If any section subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, or contravened by reason of any preemptive legislation, the remaining sections and/or provisions of this Ordinance shall remain valid. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, regardless of the fact that any one or more section(s) or provision(s) may be declared invalid or unconstitutional or contravened via legislation.

SECTION 7. Certification. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same or a summary thereof to be published and posted in the manner required by law.

SECTION 8. Effective Date. This Ordinance shall take effect thirty (30) days after passage.

AYES: (
NOES: (
ABSENT: (
ABSTAIN: (
)

Illece Buckley Weber, Mayor

ATTEST:

Kimberly M. Rodrigues, City Clerk, MMC

APPROVED AS TO FORM:

Candice K. Lee, City Attorney

sively for religious worship, school, park, playground or similar use within a five-hundred-foot radius;

- B. The requested use at the proposed location is sufficiently buffered by topographic conditions or public or private improvements from residentially zoned areas within the immediate vicinity so as not to adversely affect said areas;
- C. The exterior appearance of the structure will not be inconsistent with the external appearance of commercial structures already constructed or under construction within the immediate neighborhood so as to cause blight or property deterioration, or to substantially diminish or impair property values within the neighborhood;
- D. The requested use is not located in the freeway overlay land use district;
- E. The requested use is not located within a five-hundred-foot radius of another adult business;

DIVISION 4. RESIDENTIAL DENSITY BONUS*

9674.1. Purpose.

The purpose of the provisions of this division is to provide incentives for the production of housing for very low income, lower income, moderate income, and senior households in accordance with Government Code §§ 65915 and 65915.5, State-wide Density Bonus Law. In enacting this division, it is the intent of the city to facilitate the development of affordable housing and to implement the goals, objectives and policies of the housing element of the city's general plan. (Ord. No. 08-352, § 4, 7-9-2008)

***Editor's note**—Ord. No. 08-352, § 3, adopted July 9, 2008, repealed the former div. 4, §§ 9674—9674.4, and enacted a new div. 4 as set out herein. The former div. 4 pertained to low and moderate income housing and derived from Ord. No. 120, adopted Feb. 3, 1987.

9674.2. Definitions.

Whenever the following terms are used in this chapter, they shall have the meanings established by this section:

- A. *Additional incentive*. A regulatory concession as described in Government Code § 65915 that may include, but not be limited to, the reduction of site development standards or zoning code requirements or other regulatory incentive, that would result in identifiable cost avoidance or reductions that is offered in addition to a density bonus.
- B. *Affordable housing units*. Housing units affordable to moderate, lower or very low income persons provided through the housing density bonus program pursuant to Government Code § 65915.
- C. *Child care facility*. A child day care (non-residential care) facility other than a family day care home, including, but not limited to, infant center, preschools, extended day care facilities, and school age child care centers, as described in Government Code § 65915(i)(4).
- D. *Condominium project*. A condominium project as defined in the California Civil Code § 1351(f). At the time of adoption of this division, a condominium project means a development consisting of condominiums. A condominium consists of an undivided interest in common in a portion of real property coupled with a separate interest in a space called a unit, the boundaries of which are described on a recorded final map, parcel map, or condominium plan in sufficient detail to locate all boundaries thereof.
- E. *Density bonus*. A density increase over the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the City of Agoura Hills General Plan as of the date of application by the developer to the city.
- F. *Density bonus housing agreement*. A legally binding agreement between a devel-

oper of a housing development and the city that ensures that the requirements of this division and state density bonus law are satisfied. The agreement shall establish, among other things, the number of target units, their size, location, terms and conditions of affordability and production schedule.

- G. *Housing development.* Construction projects consisting of five (5) or more residential units or lots, including single-family and multi-family, that are proposed to be constructed.
- H. *Lower-income household.* Households of lower income as defined in of the Health and Safety Code § 50079.5. At the time of the adoption of this division, a household whose median income is equal to or less than eighty (80) percent of the area median income is lower income, and is considered to be able to afford rent that does not exceed thirty (30) percent of eighty (80) percent of the area median income.
- I. *Moderate income household.* Households of moderate income as defined in the Health and Safety Code § 50093. At the time of adoption of this division, a household whose median income is equal to or less than one hundred twenty (120) percent of the area median income is moderate income, and is considered to be able to afford rent that does not exceed thirty (30) percent of one hundred twenty (120) percent of the area median income.
- J. *Planned development.* A planned development as defined in the Civil Code § 1351. At the time of adoption of this division, a planned development means a development other than a community apartment, condominium or stock cooperative having either or both of the following features:
1. The common area is owned either by an association or in common by the owners of the separate interests who possess appurtenant rights to the beneficial use and enjoyment of the common area.
 2. A power exists in the association to enforce an obligation of an owner of a separate interest with respect to the beneficial use and enjoyment of the common area by means of an assessment that may become a lien upon the separate interests in accordance with the California Civil Code § 1367 or 1367.1.
- K. *Senior citizen.* A senior citizen as defined in the Civil Code § 51.3. At the time of the adoption of this section, qualifying resident or senior citizen were generally defined as a person sixty-two (62) years of age or older, or fifty-five (55) years of age or older living in a senior citizen housing development other than a mobile home, or the spouse, cohabitant, or person providing primary physical or economic support to the qualifying resident or senior citizen.
- L. *Senior citizen housing development.* A senior citizen housing development as defined in the Civil Code §§ 51.3 and 51.12. At the time of adoption of this division, a senior citizen housing development consists of more than twenty (20) dwelling units and is designated as a senior community by its developer and zoned as a senior community by a local governmental entity, or characterized as a senior community in its governing documents, as these are defined in section 1351, or qualified as a senior community under the Fair Housing Amendments Act of 1988, as amended.
- M. *Very low-income household.* Households of very low-income as defined in the California Health and Safety Code § 50105. At the time of the adoption of this division, a household whose median income is equal to or less than fifty (50) percent of the area median income is very low income, and is considered to be able to afford rent that does not exceed thirty (30) percent of fifty (50) percent of the area median income.

N. *Target unit.* A dwelling unit within a housing development to be reserved for sale or rent to, and affordable to, very low- or lower-income households, or moderate-income households as provided in section 9674.3 B.

(Ord. No. 08-352, § 4, 7-9-2008)

9674.3. Grant of density bonus.

A. *Qualifying for density bonus.* The city shall grant a density bonus to any project for which a density bonus and incentives are required pursuant to Government Code § 65915. A single development project shall not be granted more than one (1) density bonus in compliance with this division, except as provided in subsection B.5.

The city shall grant a density bonus and at least one (1) of the incentives described in section 9674.4 B. to an applicant who agrees to provide the following:

1. Designate at least five (5) percent of the total units of a housing development for very low income households; or
2. Designate at least ten (10) percent of the total units of a housing development for lower income households; or
3. Designate at least ten (10) percent of the total units of a condominium project or planned development for moderate income households.

The city shall grant a density bonus to an applicant who agrees to provide the following:

4. Any senior citizen housing development; or
5. Donation of land pursuant to Government Code § 65915(h).

Developers electing to comply with the state density bonus law must also meet the requirements of the city's inclusionary housing ordinance.

B. *Allowable density.* The number of density bonus units to be granted pursuant to this section shall be computed as follows:

1. *Very low-income household.* The maximum allowable residential density

for the site shall be multiplied by twenty (20) percent provided, however, that for each one (1) percent increase above five (5) percent in the percentage of units affordable to very low income households, the density bonus shall be increased by two and one-half (2.5) percent up to a maximum of thirty-five (35) percent.

2. *Lower-income household.* The maximum allowable residential density for the site shall be multiplied by twenty (20) percent provided, however, that for each one (1) percent increase above ten (10) percent in the percentage of units affordable to lower income households, the number of density bonus units shall be increased by one and one-half (1.5) percent up to a maximum of thirty-five (35) percent.
3. *Moderate-income condominium or planned development.* The maximum allowable residential density for the site shall be multiplied by five (5) percent provided, however, that for each one (1) percent increase above ten (10) percent of the percentage of units affordable to moderate income households, the density bonus shall be increased by one (1) percent up to a maximum of thirty five (35) percent.
4. *Senior housing development.* The maximum allowable residential density for the site shall be multiplied by twenty (20) percent.
5. *Certain donations of land.* When an applicant for a tentative subdivision map, parcel map, or other residential development approval donates land to the city that satisfies the requirements of Government Code § 65915(h), and complies with all procedural requirements of that subsection, including recordation of a deed restriction, then the maximum allowable residential density for the site shall be multiplied by fifteen

(15) percent. However, for each one (1) percent increase above the minimum percentage of land required to be donated pursuant to Government Code § 65915(h), the density bonus shall be increased by one (1) percent up to a maximum of thirty-five (35) percent. This increase shall be in addition to any increase required by subsection A., up to a maximum combined density increase of thirty-five (35) percent if an applicant seeks both the increase required by this subsection and by subsection A.

All density calculations resulting in fractional units shall be rounded up to the next whole number. The density bonus shall not be included when determining the number of target units. When calculating the required number of target units, any resulting fraction of units shall be rounded to the next whole number. (Ord. No. 08-352, § 4, 7-9-2008)

9674.4. Grant of incentives and concessions.

A. Applicability of incentives and concessions. The allocation of an additional incentive or concession shall be determined on a case-by-case basis by the city council pursuant to Government Code § 65915(d). The city shall provide a density bonus and an additional incentive or concession for qualified developments upon the written request of a developer, unless the city makes the written findings, based on substantial evidence set forth in Government Code § 65915(d)(1), of either of the following:

1. The concession or incentive is not required in order to provide for affordable housing costs, or for rents for the targeted units.
2. The concession or incentive would have a specific adverse impact upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources, and for which there is no feasible method to satisfactorily mitigate or avoid the spe-

cific adverse impact without rendering the development unaffordable to low- and moderate-income households.

B. Number of incentives or concessions. In addition to the density bonus granted per subsection 9674.3 B., the applicant shall receive the following number of incentives or concessions:

1. One (1) incentive shall be provided to a developer who agrees to construct at least ten (10) percent of the total units for lower income households, at least five (5) percent of the total units for very low income households, or at least ten (10) percent of units in a condominium or planned development for moderate income households.
2. Two (2) incentives shall be provided to a developer who agrees to construct at least twenty (20) percent of the total units for lower-income households, at least ten (10) percent of the total units for very low-income households, or at least twenty (20) percent of units in a condominium or planned development for moderate-income households.
3. Three (3) incentives shall be provided to a developer who agrees to construct at least thirty (30) percent of the total units for lower income households, at least fifteen (15) percent of the total units for very low income households, or at least thirty (30) percent units in a condominium or planned development for moderate income households.

<i>Table 1. Affordability Category and Available Concessions/Incentives</i>			
AFFORD-ABILITY CATEGORY	ONE CONCES-SION/ INCENTIVE	TWO CONCES-SIONS/ INCEN-TIVES	THREE CONCES-SIONS/ INCEN-TIVES
Very Low-Income	5% set aside	10% set aside	15% set aside
Lower-Income	10% set aside	20% set aside	30% set aside
Moderate-Income	10% set aside	20% set aside	30% set aside

C. Types of concessions and incentives. If requested by the applicant, a qualifying project shall be entitled to at least one (1) of the following

incentives or concessions, unless the city makes the findings required by Government Code § 65915(d)(1) as noted above:

1. *Site development standards.* A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards as approved by the California Building Standards Commission (division 13 of the Health and Safety Code), including, but not limited to, a reduction in minimum lot setbacks and reduced minimum lot size that would otherwise be required that results in identifiable, financially sufficient, and actual cost reductions.
 2. *Mixed use.* Approval of a mixed use zoning in conjunction with the housing project if other land uses will reduce the cost of the housing development and if the other uses are compatible with the housing project and existing or proposed development in the area where the proposed housing project will be located.
 3. *Other.* Other regulatory incentives or concessions proposed by the developer or city that result in identifiable, financially sufficient, and actual cost reductions.
 4. This section does not limit or require the provision of direct financial incentives for the housing development, including the provision of publicly owned land by the city or the waiver of fees or dedication requirements.
- D. *Requirements for concessions and incentives.*
1. *Economic feasibility.* An applicant seeking a waiver or modification of development or zoning standards shall show that the waiver or modification is necessary to make the housing development economically feasible assuming a reasonable rate of return.
 3. *Revenue.* When determining project revenues, the applicant shall include moneys from the sale or rental of all units, including the density bonus units.
4. *Costs.* When determining project costs, the applicant shall not include the lost opportunity cost of the target units (e.g., the amount that would have been generated had the target units been rented or sold at market rate).
 5. *Criteria used for evaluation.* One (1) or more of the following criteria, to be determined by the city, shall be used to evaluate whether an incentive or concession is sufficient to make the affordable housing units economically feasible, and shall be submitted by the applicant:
 - a. A development pro forma with the capital costs, operating expenses, return on investment, revenues, loan-to-value ratio and the debt-coverage ratio, including the contribution provided by any applicable subsidy programs, and the economic effect created by the thirty (30) year use and income restrictions of the affordable housing units.
 - b. Sources and use of funds statement identifying the projected financing gap of the project with the affordable housing units that are the basis for granting the density bonus and incentive(s) or concession(s). The developer shall establish how much of the gap would be covered by the density bonus, leaving a remainder figure to be covered by an additional incentive.
 - c. An appraisal report indicating the value of the density bonus and of the incentive(s) or concession(s) and of the value of any other incentive.
- Determination of the completeness and accuracy of the financial information submitted in support of a request for an incentive and evaluation of this information shall be made by the city. The city may request assistance from a consultant in reviewing the financial information, the cost of which shall be borne by the applicant. (Ord. No. 08-352, § 4, 7-9-2008)

9674.5. Floor area bonus for concessions/incentives for childcare facilities.

A. In cases where the developer agrees to construct a housing development that qualifies for a density bonus pursuant to subsection 9674.3 A. of this division that includes a childcare facility, the developer shall be entitled to an additional density bonus that is an amount of square feet of residential space equal to or greater than the amount of square feet in the childcare facility; or an additional incentive described in subsection 9674.4 B., of this division that contributes significantly to the economic feasibility of the construction of the childcare facility. Any such childcare facility shall comply with the following:

1. The childcare facility shall remain in operation for a period of time that is as long or longer than the period of time during which the density bonus units are required to remain affordable;
2. Of the children who attend the childcare facility, the children of very low-income households, lower-income households, or families of moderate income shall equal a percentage that is equal to or greater than the percentage of dwelling units that are required for very low-income households, lower-income households, or families of moderate-income, pursuant to this division.

Notwithstanding the foregoing, the city shall not be required to provide a density bonus or incentive for a childcare facility when it is found, based upon substantial evidence, that the city has adequate childcare facilities.
(Ord. No. 08-352, § 4, 7-9-2008)

9674.6. Affordability requirements.

A. The owner's obligation to maintain units as affordable housing shall be evidenced by the density bonus housing agreement, which shall be recorded as a deed restriction running with the land and be binding upon all successors-in-interest.

B. Very low- and low-income category target units shall remain restricted and affordable to the designated group for a period of thirty (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), or otherwise provided by law.

C. Those units targeted for lower-income households shall be affordable at a rent that does not exceed current HUD income limits for lower-income households for the county, adjusted for household size.

D. Those units targeted for very low-income households shall be affordable at a rent that does not exceed current HUD income limits for very low-income households for the county, adjusted for household size.

E. An applicant shall agree that the initial occupants of the moderate-income units in the condominium project or in the planned development are persons and families of moderate income. Upon resale, the seller of the unit shall retain the value of any improvements, the down payment, and the seller's proportionate share of appreciation. The city shall recapture its proportionate share of appreciation, which shall then be used within three (3) years for any of the purposes described in Health and Safety Code § 33334.2(e) that promote homeownership. For the purposes of this section, the city's proportionate share of appreciation shall be equal to the percentage by which the initial sale price to the moderate-income household was less than the fair market value of the home at the time of initial sale.
(Ord. No. 08-352, § 4, 7-9-2008)

9674.7. Development standards.

A. Target units shall be constructed concurrently with nonrestricted units unless both the city and the applicant agree within the density bonus housing agreement to an alternative schedule for development.

B. Target units shall be built on site, and shall be dispersed within the development. In no event shall the target housing be located in only one (1) portion of the housing development or situated in one (1) building of a multi-building development. The design and exterior appearance of the affordable units shall be the same as the design and construction quality of the overall housing devel-

opment. Target units may be smaller in aggregate size and have different interior finishes and features than the remainder of the units as long as the interior features are durable, of good quality and consistent with contemporary standards for new housing. The number of bedrooms must at a minimum be the same as those in the market-rate units. Housing developments shall comply with all applicable development standards, except those that may be modified as provided by this division.

C. The density bonus units can be located in geographic areas of the development site other than the areas where the target units are located, and can be located only on parcels for which the density bonus was granted.

D. The entry into and execution of the density bonus housing agreement shall be a condition of any application for a discretionary planning permit (e.g., tract maps, parcel maps, site plans, conditional use permits) for a housing development proposed pursuant to this division. The agreement shall be recorded at the applicant's cost as a restriction on the parcel or parcels on which the target units will be constructed.

E. Upon request of the developer of a housing development qualifying for a density bonus pursuant to this division, the city shall permit vehicular parking ratios, inclusive of handicapped and guest parking, in accordance with the following standards:

1. 0—1 bedrooms: One (1) onsite parking space.
2. 2—3 bedrooms: Two (2) onsite parking spaces.
3. 4 or more bedrooms: Two and one-half (2.5) parking spaces.

If the total number of parking spaces required for a housing development is other than a whole number, the number shall be rounded up to the next whole number. For purposes of this section, a housing development may provide onsite parking through tandem parking or uncovered parking, but not through onstreet parking.

(Ord. No. 08-352, § 4, 7-9-2008)

9674.8. Processing of bonus requests.

A. *Filing.* An applicant proposing a housing development pursuant to this division shall submit an application for a density bonus housing

agreement as part of the submittal of any formal request for approval of a housing development. This shall be in addition to any other submittals required for the application for a discretionary planning permit for the housing development (e.g., tract maps, parcel maps, site plans, conditional use permits). An application for a density bonus housing agreement pursuant to this division shall be processed as part of the application for a housing development. An application for a housing development shall not be determined complete for purposes of Government Code § 65920, et seq., unless and until the city council has given preliminary approval of the form and content of the density bonus housing agreement, which complies with the provisions of this division.

B. Density bonus housing agreement.

1. A density bonus housing agreement shall be made between the applicant and the city, which indicates the household type, number, location, size, and construction scheduling of all affordable units and any information required by the city to determine the applicant's compliance with this division.
2. The agreement shall be submitted to the planning commission for its recommendation and submitted to the city council for final approval.
3. Following execution of the agreement by the applicant and the city, the completed agreement, or memorandum thereof, shall be recorded. The conditions contained in the agreement shall be filed and recorded on the parcel(s) designated for the construction of target units as a condition of final map approval, or, where a map is not being processed, prior to issuance of building permits or such parcels or units. The agreement shall be binding upon all future owners and successors in interest for this property, which is the subject of the housing development application.

C. *Findings.* All of the following findings shall be made, as applicable, in order to approve a density bonus, and incentive(s) or concession(s).

1. That the density bonus will contribute significantly to the economic feasibility of providing the affordable housing units.

2. That the incentive or concession is required in order to make the affordable housing units economically feasible or to set rents at qualifying levels for senior citizens and for moderate income, lower income or very low income households.
3. That the increased density and incentive(s) or concessions(s) will not cause significant adverse effects on the public health and safety or the physical environment.

(Ord. No. 08-352, § 4, 7-9-2008)

9674.9. Changes in state density bonus laws.

It is the intent of the city council that the provisions of this division shall be interpreted so as to fulfill the requirements of Government Code § 65915, notwithstanding changes in state laws revising percentages, numerical thresholds and/or other standards applicable to the granting of density bonuses or related incentives or concessions that may occur after the effective date of this division. Accordingly, it is the further intent of the city council that any such changed percentages, numerical thresholds or other standards shall be deemed to supersede and govern any conflicting percentages, numerical thresholds or other standards contained in this division, to the maximum extent permitted by law.

(Ord. No. 08-352, § 4, 7-9-2008)

9674.10. Administrative procedures.

The director, or his or her designee, may adopt administrative procedures for the implementation of this division.

(Ord. No. 08-352, § 4, 7-9-2008)

DIVISION 5. MOBILE HOME PERMIT*

9675. Mobile home permit; purpose.

The mobile home permit is established to provide for the individual placement of a mobile home containing one (1) dwelling unit, in lieu of a

*Editor's note—Ord. No. 11-383, § 20, adopted March 9, 2011, amended Div. 5 in its entirety to read as set out herein. Former Div. 5, §§ 9675—9678.3, pertained to similar subject matter and derived from Ord. No. 120 adopted Feb. 3, 1983; Ord. No. 93-242, § 3, adopted Nov. 10, 1993.

single-family residence, on a lot or parcel of land where permitted in the district, subject to the area requirements of the land use district. It is the intent of this permit to recognize the modern mobile home as an alternate source of affordable factory-built housing available from the manufacturer with an exterior similar to conventionally constructed housing. The mobile home permit is intended to ensure that mobile homes so placed are compatible with surrounding uses, that the proposed site is suitable, and that the property values are protected through the imposition of appropriate regulations and conditions for placement and maintenance of such mobile homes. These provisions do not apply to mobile home parks.

(Ord. No. 11-383, § 20, 3-9-2011)

9675.1. Application procedures.

All applications for a mobile home permit shall conform to the following procedures:

A. *Application—Information.* The applicant of a mobile home permit shall substantiate to the satisfaction of the commission the following fact:

1. That the requested mobile home has, or is capable of and will be structurally altered to present, an exterior appearance similar to conventionally constructed housing.

B. *Application—Fee.* When a mobile home permit application is filed, it shall be accompanied by the filing fee as established by city council resolution.

C. *Application—Denial for lack of information.* The director may deny, without a public hearing, and [an] application for a mobile home permit is [if] such application does not contain the information required by the [this] section. The director may permit the applicant to amend such application.

D. *Application—Conditions for approval.* The commission shall not approve an application for a mobile home permit in lieu of a single-family residence unless they find that the information provided is correct.

State of California

GOVERNMENT CODE

Section 65915

65915. (a) (1) When an applicant seeks a density bonus for a housing development within, or for the donation of land for housing within, the jurisdiction of a city, county, or city and county, that local government shall comply with this section. A city, county, or city and county shall adopt an ordinance that specifies how compliance with this section will be implemented. Failure to adopt an ordinance shall not relieve a city, county, or city and county from complying with this section.

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

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

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

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

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

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

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

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

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

(ii) Any determination required by this subparagraph shall be based on the development project at the time the application is deemed complete. The local

government shall adjust the amount of density bonus and parking ratios awarded pursuant to this section based on any changes to the project during the course of development.

(b) (1) A city, county, or city and county shall grant one density bonus, the amount of which shall be as specified in subdivision (f), and, if requested by the applicant and consistent with the applicable requirements of this section, incentives or concessions, as described in subdivision (d), waivers or reductions of development standards, as described in subdivision (e), and parking ratios, as described in subdivision (p), when an applicant for a housing development seeks and agrees to construct a housing development, excluding any units permitted by the density bonus awarded pursuant to this section, that will contain at least any one of the following:

(A) Ten percent of the total units of a housing development for lower income households, as defined in Section 50079.5 of the Health and Safety Code.

(B) Five percent of the total units of a housing development for very low income households, as defined in Section 50105 of the Health and Safety Code.

(C) A senior citizen housing development, as defined in Sections 51.3 and 51.12 of the Civil Code, or a mobilehome park that limits residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the Civil Code.

(D) Ten percent of the total dwelling units in a common interest development, as defined in Section 4100 of the Civil Code, for persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code, provided that all units in the development are offered to the public for purchase.

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

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

(I) All units in the student housing development will be used exclusively for undergraduate, graduate, or professional students enrolled full time at an institution of higher education accredited by the Western Association of Schools and Colleges or the Accrediting Commission for Community and Junior Colleges. In order to be eligible under this subclause, the developer shall, as a condition of receiving a certificate of occupancy, provide evidence to the city, county, or city and county that the developer has entered into an operating agreement or master lease with one or more institutions of higher education for the institution or institutions to occupy all units of the student housing development with students from that institution or institutions. An operating agreement or master lease entered into pursuant to this subclause is not violated or breached if, in any subsequent year, there are not sufficient

students enrolled in an institution of higher education to fill all units in the student housing development.

(II) The applicable 20-percent units will be used for lower income students. For purposes of this clause, "lower income students" means students who have a household income and asset level that does not exceed the level for Cal Grant A or Cal Grant B award recipients as set forth in paragraph (1) of subdivision (k) of Section 69432.7 of the Education Code. The eligibility of a student under this clause shall be verified by an affidavit, award letter, or letter of eligibility provided by the institution of higher education that the student is enrolled in, as described in subclause (I), or by the California Student Aid Commission that the student receives or is eligible for financial aid, including an institutional grant or fee waiver, from the college or university, the California Student Aid Commission, or the federal government shall be sufficient to satisfy this subclause.

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

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

(ii) For purposes of calculating a density bonus granted pursuant to this subparagraph, the term "unit" as used in this section means one rental bed and its pro rata share of associated common area facilities. The units described in this subparagraph shall be subject to a recorded affordability restriction of 55 years.

(G) One hundred percent of the total units, exclusive of a manager's unit or units, are for lower income households, as defined by Section 50079.5 of the Health and Safety Code, except that up to 20 percent of the total units in the development may be for moderate-income households, as defined in Section 50053 of the Health and Safety Code.

(2) For purposes of calculating the amount of the density bonus pursuant to subdivision (f), an applicant who requests a density bonus pursuant to this subdivision shall elect whether the bonus shall be awarded on the basis of subparagraph (A), (B), (C), (D), (E), (F), or (G) of paragraph (1).

(3) For the purposes of this section, "total units," "total dwelling units," or "total rental beds" does not include units added by a density bonus awarded pursuant to this section or any local law granting a greater density bonus.

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

(B) (i) Except as otherwise provided in clause (ii), rents for the lower income density bonus units shall be set at an affordable rent, as defined in Section 50053 of the Health and Safety Code.

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

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

(II) The rent for the remaining units in the development shall be set at an amount consistent with the maximum rent levels for a housing development that receives an allocation of state or federal low-income housing tax credits from the California Tax Credit Allocation Committee.

(2) An applicant shall agree to, and the city, county, or city and county shall ensure that, the initial occupant of all for-sale units that qualified the applicant for the award of the density bonus are persons and families of very low, low, or moderate income, as required, and that the units are offered at an affordable housing cost, as that cost is defined in Section 50052.5 of the Health and Safety Code. The local government shall enforce an equity sharing agreement, unless it is in conflict with the requirements of another public funding source or law. The following apply to the equity sharing agreement:

(A) Upon resale, the seller of the unit shall retain the value of any improvements, the downpayment, and the seller's proportionate share of appreciation. The local government shall recapture any initial subsidy, as defined in subparagraph (B), and its proportionate share of appreciation, as defined in subparagraph (C), which amount shall be used within five years for any of the purposes described in subdivision (e) of Section 33334.2 of the Health and Safety Code that promote home ownership.

(B) For purposes of this subdivision, the local government's initial subsidy shall be equal to the fair market value of the home at the time of initial sale minus the initial sale price to the moderate-income household, plus the amount of any downpayment assistance or mortgage assistance. If upon resale the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value.

(C) For purposes of this subdivision, the local government's proportionate share of appreciation shall be equal to the ratio of the local government's initial subsidy to the fair market value of the home at the time of initial sale.

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

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

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

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

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

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

replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years. If the proposed development is for-sale units, the units replaced shall be subject to paragraph (2).

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

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

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

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

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

(d) (1) An applicant for a density bonus pursuant to subdivision (b) may submit to a city, county, or city and county a proposal for the specific incentives or concessions that the applicant requests pursuant to this section, and may request a meeting with the city, county, or city and county. The city, county, or city and county shall grant the concession or incentive requested by the applicant unless the city, county, or city and county makes a written finding, based upon substantial evidence, of any of the following:

(A) The concession or incentive does not result in identifiable and actual cost reductions, consistent with subdivision (k), to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).

(B) The concession or incentive would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or 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 low-income and moderate-income households.

(C) The concession or incentive would be contrary to state or federal law.

(2) The applicant shall receive the following number of incentives or concessions:

(A) One incentive or concession for projects that include at least 10 percent of the total units for lower income households, at least 5 percent for very low income

households, or at least 10 percent for persons and families of moderate income in a common interest development.

(B) Two incentives or concessions for projects that include at least 20 percent of the total units for lower income households, at least 10 percent for very low income households, or at least 20 percent for persons and families of moderate income in a common interest development.

(C) Three incentives or concessions for projects that include at least 30 percent of the total units for lower income households, at least 15 percent for very low income households, or at least 30 percent for persons and families of moderate income in a common interest development.

(D) Four incentives or concessions for projects meeting the criteria of subparagraph (G) of paragraph (1) of subdivision (b). If the project is located within one-half mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code, the applicant shall also receive a height increase of up to three additional stories, or 33 feet.

(3) The applicant may initiate judicial proceedings if the city, county, or city and county refuses to grant a requested density bonus, incentive, or concession. If a court finds that the refusal to grant a requested density bonus, incentive, or concession is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit. Nothing in this subdivision shall be interpreted to require a local government to grant an incentive or concession that has a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Nothing in this subdivision shall be interpreted to require a local government to grant an incentive or concession that would have an adverse impact on any real property that is listed in the California Register of Historical Resources. The city, county, or city and county shall establish procedures for carrying out this section that shall include legislative body approval of the means of compliance with this section.

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

(e) (1) In no case may a city, county, or city and county apply any development standard that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted by this section. Subject to paragraph (3), an applicant may submit to a city, county, or city and county a proposal for the waiver or reduction of development standards that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted under this section, and may request a meeting with the city, county, or city and county. If a court finds that the refusal to grant a waiver or reduction of development standards is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit. Nothing in this subdivision shall be interpreted to require a local government to waive or reduce development standards if the waiver or reduction would have a specific, adverse

impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Nothing in this subdivision shall be interpreted to require a local government to waive or reduce development standards that would have an adverse impact on any real property that is listed in the California Register of Historical Resources, or to grant any waiver or reduction that would be contrary to state or federal law.

(2) A proposal for the waiver or reduction of development standards pursuant to this subdivision shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to subdivision (d).

(3) A housing development that receives a waiver from any maximum controls on density pursuant to clause (ii) of subparagraph (D) of paragraph (3) of subdivision (f) shall not be eligible for, and shall not receive, a waiver or reduction of development standards pursuant to this subdivision, other than as expressly provided in subparagraph (D) of paragraph (2) of subdivision (d) and clause (ii) of subparagraph (D) of paragraph (3) of subdivision (f).

(f) For the purposes of this chapter, “density bonus” means a density increase over the otherwise maximum allowable gross residential density as of the date of application by the applicant to the city, county, or city and county, or, if elected by the applicant, a lesser percentage of density increase, including, but not limited to, no increase in density. The amount of density increase to which the applicant is entitled shall vary according to the amount by which the percentage of affordable housing units exceeds the percentage established in subdivision (b).

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

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

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

Percentage Very Low Income Units	Percentage Density Bonus
5	20

6	22.5
7	25
8	27.5
9	30
10	32.5
11	35

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

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

(C) For housing developments meeting the criteria of subparagraph (F) of paragraph (1) of subdivision (b), the density bonus shall be 35 percent of the student housing units.

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

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

(ii) If the housing development is located within one-half mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code, the city, county, or city and county shall not impose any maximum controls on density.

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

Percentage Moderate-Income Units	Percentage Density Bonus
10	5
11	6
12	7
13	8
14	9
15	10
16	11
17	12
18	13
19	14
20	15
21	16
22	17
23	18
24	19
25	20
26	21

27	22
28	23
29	24
30	25
31	26
32	27
33	28
34	29
35	30
36	31
37	32
38	33
39	34
40	35

(5) All density calculations resulting in fractional units shall be rounded up to the next whole number. The granting of a density bonus shall not require, or be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary approval.

(g) (1) When an applicant for a tentative subdivision map, parcel map, or other residential development approval donates land to a city, county, or city and county in accordance with this subdivision, the applicant shall be entitled to a 15-percent increase above the otherwise maximum allowable residential density for the entire development, as follows:

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

28
29
30

33
34
35

(2) This increase shall be in addition to any increase in density mandated by subdivision (b), up to a maximum combined mandated density increase of 35 percent if an applicant seeks an increase pursuant to both this subdivision and subdivision (b). All density calculations resulting in fractional units shall be rounded up to the next whole number. Nothing in this subdivision shall be construed to enlarge or diminish the authority of a city, county, or city and county to require a developer to donate land as a condition of development. An applicant shall be eligible for the increased density bonus described in this subdivision if all of the following conditions are met:

(A) The applicant donates and transfers the land no later than the date of approval of the final subdivision map, parcel map, or residential development application.

(B) The developable acreage and zoning classification of the land being transferred are sufficient to permit construction of units affordable to very low income households in an amount not less than 10 percent of the number of residential units of the proposed development.

(C) The transferred land is at least one acre in size or of sufficient size to permit development of at least 40 units, has the appropriate general plan designation, is appropriately zoned with appropriate development standards for development at the density described in paragraph (3) of subdivision (c) of Section 65583.2, and is or will be served by adequate public facilities and infrastructure.

(D) The transferred land shall have all of the permits and approvals, other than building permits, necessary for the development of the very low income housing units on the transferred land, not later than the date of approval of the final subdivision map, parcel map, or residential development application, except that the local government may subject the proposed development to subsequent design review to the extent authorized by subdivision (i) of Section 65583.2 if the design is not reviewed by the local government before the time of transfer.

(E) The transferred land and the affordable units shall be subject to a deed restriction ensuring continued affordability of the units consistent with paragraphs (1) and (2) of subdivision (c), which shall be recorded on the property at the time of the transfer.

(F) The land is transferred to the local agency or to a housing developer approved by the local agency. The local agency may require the applicant to identify and transfer the land to the developer.

(G) The transferred land shall be within the boundary of the proposed development or, if the local agency agrees, within one-quarter mile of the boundary of the proposed development.

(H) A proposed source of funding for the very low income units shall be identified not later than the date of approval of the final subdivision map, parcel map, or residential development application.

(h) (1) When an applicant proposes to construct a housing development that conforms to the requirements of subdivision (b) and includes a childcare facility that will be located on the premises of, as part of, or adjacent to, the project, the city, county, or city and county shall grant either of the following:

(A) An additional density bonus that is an amount of square feet of residential space that is equal to or greater than the amount of square feet in the childcare facility.

(B) An additional concession or incentive that contributes significantly to the economic feasibility of the construction of the childcare facility.

(2) The city, county, or city and county shall require, as a condition of approving the housing development, that the following occur:

(A) The childcare facility shall remain in operation for a period of time that is as long as or longer than the period of time during which the density bonus units are required to remain affordable pursuant to subdivision (c).

(B) Of the children who attend the childcare facility, the children of very low income households, lower income households, or families of moderate income shall equal a percentage that is equal to or greater than the percentage of dwelling units that are required for very low income households, lower income households, or families of moderate income pursuant to subdivision (b).

(3) Notwithstanding any requirement of this subdivision, a city, county, or city and county shall not be required to provide a density bonus or concession for a childcare facility if it finds, based upon substantial evidence, that the community has adequate childcare facilities.

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

(i) "Housing development," as used in this section, means a development project for five or more residential units, including mixed-use developments. For the purposes of this section, "housing development" also includes a subdivision or common interest development, as defined in Section 4100 of the Civil Code, approved by a city, county, or city and county and consists of residential units or unimproved residential lots and either a project to substantially rehabilitate and convert an existing commercial building to residential use or the substantial rehabilitation of an existing multifamily dwelling, as defined in subdivision (d) of Section 65863.4, where the result of the rehabilitation would be a net increase in available residential units. For the purpose of calculating a density bonus, the residential units shall be on contiguous sites that are the subject of one development application, but do not have to be based upon individual subdivision maps or parcels. The density bonus shall be permitted in geographic areas of the housing development other than the areas where the units for the lower income households are located.

(j) (1) The granting of a concession or incentive shall not require or be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, study, or other discretionary approval. For purposes of this subdivision, "study" does not include reasonable documentation to establish eligibility for the

concession or incentive or to demonstrate that the incentive or concession meets the definition set forth in subdivision (k). This provision is declaratory of existing law.

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

(k) For the purposes of this chapter, concession or incentive means any of the following:

(1) A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, including, but not limited to, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required that results in identifiable and actual cost reductions, to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).

(2) Approval of mixed-use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if the commercial, office, industrial, or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located.

(3) Other regulatory incentives or concessions proposed by the developer or the city, county, or city and county that result in identifiable and actual cost reductions to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).

(l) Subdivision (k) does not limit or require the provision of direct financial incentives for the housing development, including the provision of publicly owned land, by the city, county, or city and county, or the waiver of fees or dedication requirements.

(m) This section does not supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code). Any density bonus, concessions, incentives, waivers or reductions of development standards, and parking ratios to which the applicant is entitled under this section shall be permitted in a manner that is consistent with this section and Division 20 (commencing with Section 30000) of the Public Resources Code.

(n) If permitted by local ordinance, nothing in this section shall be construed to prohibit a city, county, or city and county from granting a density bonus greater than what is described in this section for a development that meets the requirements of this section or from granting a proportionately lower density bonus than what is required by this section for developments that do not meet the requirements of this section.

(o) For purposes of this section, the following definitions shall apply:

(1) "Development standard" includes a site or construction condition, including, but not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open-space requirement, or a parking ratio that applies to a residential development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation.

(2) "Maximum allowable residential density" means the density allowed under the zoning ordinance and land use element of the general plan, or, if a range of density is permitted, means the maximum allowable density for the specific zoning range and land use element of the general plan applicable to the project. If the density allowed under the zoning ordinance is inconsistent with the density allowed under the land use element of the general plan, the general plan density shall prevail.

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

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

(B) Two to three bedrooms: two onsite parking spaces.

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

(2) Notwithstanding paragraph (1), if a development includes the maximum percentage of low-income or very low income units provided for in paragraphs (1) and (2) of subdivision (f) and is located within one-half mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code, and there is unobstructed access to the major transit stop from the development, then, upon the request of the developer, a city, county, or city and county shall not impose a vehicular parking ratio, inclusive of handicapped and guest parking, that exceeds 0.5 spaces per bedroom. For purposes of this subdivision, a development shall have unobstructed access to a major transit stop if a resident is able to access the major transit stop without encountering natural or constructed impediments.

(3) Notwithstanding paragraph (1), if a development consists solely of rental units, exclusive of a manager's unit or units, with an affordable housing cost to lower income families, as provided in Section 50052.5 of the Health and Safety Code, then, upon the request of the developer, a city, county, or city and county shall not impose a vehicular parking ratio, inclusive of handicapped and guest parking, that exceeds the following ratios:

(A) If the development is located within one-half mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code, and there is unobstructed access to the major transit stop from the development, the ratio shall not exceed 0.5 spaces per unit.

(B) If the development is a for-rent housing development for individuals who are 62 years of age or older that complies with Sections 51.2 and 51.3 of the Civil Code, the ratio shall not exceed 0.5 spaces per unit. The development shall have either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.

(4) Notwithstanding paragraphs (1) and (8), if a development consists solely of rental units, exclusive of a manager's unit or units, with an affordable housing cost to lower income families, as provided in Section 50052.5 of the Health and Safety Code, and the development is either a special needs housing development, as defined in Section 51312 of the Health and Safety Code, or a supportive housing development, as defined in Section 50675.14 of the Health and Safety Code, then, upon the request of the developer, a city, county, or city and county shall not impose any minimum vehicular parking requirement. A development that is a special needs housing development shall have either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.

(5) If the total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number. For purposes of this subdivision, a development may provide onsite parking through tandem parking or uncovered parking, but not through onstreet parking.

(6) This subdivision shall apply to a development that meets the requirements of subdivisions (b) and (c), but only at the request of the applicant. An applicant may request parking incentives or concessions beyond those provided in this subdivision pursuant to subdivision (d).

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

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

(9) A request pursuant to this subdivision shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to subdivision (d).

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

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

(Amended (as amended by Stats. 2018, Ch. 937) by Stats. 2019, Ch. 666, Sec. 1. (AB 1763) Effective January 1, 2020.)

RESOLUTION NO. 20-1242

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF AGOURA HILLS RECOMMENDING THAT THE CITY COUNCIL APPROVE A ZONING ORDINANCE AMENDMENT TO THE RESIDENTIAL DENSITY BONUS ORDINANCE REGULATIONS (DIVISION 4 OF PART 3 OF CHAPTER 6 OF ARTICLE IX OF THE AGOURA HILLS MUNICIPAL CODE); AND MAKING A FINDING OF EXEMPTION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CASE NO. ZOA-01736-2020) (CITY OF AGOURA HILLS, APPLICANT)

THE PLANNING COMMISSION OF THE CITY OF AGOURA HILLS HEREBY FINDS, RESOLVES, AND ORDERS AS FOLLOWS:

WHEREAS, the Planning Commission has considered a Zoning Ordinance Amendment (ZOA) to update the regulations pertaining to the Residential Density Bonus Ordinance in Division 4 (Residential Density Bonus) of Part 3 (Special Permit or Review) of Chapter 6 (Regulatory Provisions) of Article IX (Zoning) of the Agoura Hills Municipal Code; and

WHEREAS, a duly noticed public hearing was held by Video Conference on May 7, 2020 at 6:30 p.m. from the City Hall Council Chambers, 30001 Ladyface Court, Agoura Hills, California. Notice of the time, date, place and purpose of the aforesaid hearing was duly given; and

WHEREAS, evidence, both written and oral, was duly presented to and considered by the Planning Commission of the City of Agoura Hills at the aforesaid public hearing; and

WHEREAS, after close of the public hearing, the Planning Commission considered all public comments received both before and during the public hearing, the presentation by City staff, the staff report, the recommendations, and all other pertinent documents and associated actions regarding the proposed ordinance amendment; and

WHEREAS, the purpose of the ordinance is to revise and update the residential density bonus regulations of the Agoura Hills Municipal Code, and further the purpose set forth in Agoura Hills Municipal Code Section 9674.1, to be consistent with recent amendments to California Government Code section 65915, which includes Assembly Bill 1763; and

WHEREAS, the proposed amendments are consistent with the purposes of the Agoura Hills General Plan, more specifically including: 1) Policy H-2.2, which is to facilitate the development of affordable housing through regulatory incentives and concessions via the density bonus ordinance, and/or financial assistance; 2) Goal H-3, which is to provide opportunities for a range of housing types suited to residents of varying

lifestyle needs and income levels; and 3) Policy H-3.1, which is to provide site opportunities for a full range of housing types, locations, and densities to address the diverse needs of Agoura Hills's residents; and

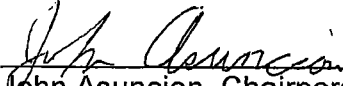
WHEREAS, the custodian of records for all materials that constitute the record of proceedings upon which the Planning Commission's decision was based is the City Clerk of the City of Agoura Hills. Those documents are available upon request from Kimberly Rodrigues, at (818) 597-7303 and krodrigues@ci.agoura-hills.ca.us, for public review in the Office of the City Clerk located at 30001 Ladyface Court, Agoura Hills, California, 91301, and online at www.ci.agoura-hills.ca.us; and

WHEREAS, the provisions of the Municipal Code have been reviewed and considered by the Planning Commission in accordance with the provisions of the California Environmental Quality Act (CEQA), as amended, and the CEQA Guidelines promulgated thereunder. The ordinance has been determined to be exempt from the California Environmental Quality Act (CEQA) as there is no possibility that the Ordinance would have a significant impact on the environment pursuant to CEQA Guidelines Section 15061(b)(3). More specifically, the Ordinance merely incorporates state law into the Agoura Hills Municipal Code, allowing applicants to seek a density bonus pursuant to Government Code Section 65915, as required by state law. The ordinance does not exempt any future project from CEQA nor does it approve any development project. All projects that are subject to CEQA remain subject to CEQA. A Notice of Exemption will be prepared and filed in accordance with CEQA and the CEQA Guidelines.

NOW, THEREFORE, BE IT RESOLVED, based on the findings and conclusions set forth above, that the Planning Commission of the City of Agoura Hills recommends that the City Council adopt the draft ordinance attached hereto as Exhibit "A," and make a finding of exemption under the California Environmental Quality Act.

PASSED, APPROVED AND ADOPTED this 7th day of May, 2020, by the following vote to wit:

AYES: (5) Asuncion, Mogri, Anderson, Justice, Wolf
NOES: (0)
ABSENT: (0)
ABSTAIN: (0)



John Asuncion, Chairperson

ATTEST:



Doug Hooper, Secretary

Exhibit "A"
DRAFT ORDINANCE

DRAFT ORDINANCE NO. 20-_____

AN ORDINANCE OF THE CITY OF AGOURA HILLS, CALIFORNIA, AMENDING DIVISION 4 (RESIDENTIAL DENSITY BONUS) OF PART 3 (SPECIAL PERMIT OR REVIEW) OF CHAPTER 6 (REGULATORY PROVISIONS) OF ARTICLE IX (ZONING) OF THE AGOURA HILLS MUNICIPAL CODE TO REVISE REGULATIONS TO CONFORM TO STATE DENSITY BONUS LAW (CALIFORNIA GOVERNMENT CODE SECTION 65915), AND FINDING THE ORDINANCE TO BE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

WHEREAS, the State Legislature has declared that the lack of housing, including providing for a variety of housing types for all income levels and special needs groups, is a critical problem that threatens the economic, environmental, and social quality of life in California.

WHEREAS, Government Code Section 65583 requires that the City's Housing Element address governmental constraints to the development of housing, including providing for a variety of housing types for all income levels.

WHEREAS, the City Council of the City of Agoura Hills adopted the City's 2013-2021 Housing Element on August 28, 2013.

WHEREAS, Government Code Section 65915 requires that local governments adopt procedures for processing a density bonus application.

WHEREAS, the City's Municipal Code already allows for density bonuses and development concessions, but the City's 2013-2021 Housing Element provides that the City will maintain a local density bonus program consistent with State requirements.

WHEREAS, the Legislature amended Government Code Section 65915 in 2019 to clarify certain provisions of Density Bonus Law, and the City wishes to update the Municipal Code to ensure consistency with state law and clarify how to implement the density bonus program.

THE CITY COUNCIL OF THE CITY OF AGOURA HILLS DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The facts set forth in the recitals of this Ordinance are true and correct.

SECTION 2. Procedural Findings. The City Council of the City of Agoura Hills does hereby find, determine, and declare that:

A. The Planning Commission considered this Ordinance on May 7, 2020, at a duly noticed public hearing, as prescribed by law, at which time the City Staff and interested persons had an opportunity to and did testify either in support of or against this matter.

B. At the conclusion of the Planning Commission hearing and after due consideration of the testimony, the Planning Commission adopted Resolution No. 20-____, recommending approval of the Ordinance by the City Council.

C. The City Council, at a regular meeting, considered the Ordinance on _____, 2020, at a duly noticed public hearing, as prescribed by law, at which time the City Staff and interested persons had an opportunity to and did testify either in support or against this matter.

D. Following the public hearing, the City Council considered the entire record of information received at the public hearings before the Planning Commission and City Council.

SECTION 3. Findings. The City Council of the City of Agoura Hills in approving the proposed Municipal Code amendment hereby makes the following findings:

A. This Ordinance is consistent with State Housing Law, the Agoura Hills 2013-2021 Housing Element, and the Agoura Hills General Plan. This Ordinance clarifies the City's density bonus provisions to conform to the requirements of California Government Code Section 65915, as most recently amended by Assembly Bill 1763 during the 2019 legislative session.

B. The proposed Ordinance amends portions of Article IX of the Agoura Hills Municipal Code to conform with State Density Bonus Law and with the goals, policies, programs, and guidelines of the City's General Plan. Specifically, the Ordinance implements the following goals and policies contained in the City's 2013-2021 Housing Element:

Policy H-2.2 Affordable Housing Incentives. Facilitate the development of affordable housing through regulatory incentives and concessions via the density bonus ordinance, and/or financial assistance. Leverage local funds with outside sources.

Goal H-3 Provide Adequate Sites to Achieve a Diversity of Housing. Provide opportunities for a range of housing types suited to residents of varying lifestyle needs and income levels.

Policy H-3.1 Variety of Housing Choices. Provide site opportunities for a full range of housing types, locations, and densities to address the diverse needs of Agoura Hills's residents.

C. The housing developments that would be authorized by this Ordinance would be established and maintained in a manner consistent with the General Plan, specifically the policies described above, and all applicable provisions therein. The proposed ordinance encourages affordable housing options by providing for additional density bonuses and development concessions or incentives. Specifically, the ordinance would comply with state law, which requires that local agencies provide additional density bonuses and development incentives or concession for those projects that propose 100 percent of the units to be restricted to lower-income households. The proposed ordinance encourages production of affordable housing units for lower-income households. These units create housing opportunities in Agoura Hills for a population that is in need of affordable housing and otherwise could not attain housing at market rate.

SECTION 4. Division 4 (Residential Density Bonus) of Part 3 (Special Permit or Review) of Chapter 6 (Regulatory Provisions) of Article IX (Zoning) of the Agoura Hills Municipal Code is hereby amended in its entirety to read as follows:

"Division 4. Residential Density Bonus.

9674.1. Purpose.

The purpose of the provisions of this division is to provide incentives for the production of specific housing types for populations, including, but not limited to, low income, lower income, moderate income, and senior households in accordance with Government Code Section 65915, commonly referred to as the State Density Bonus Law. In enacting this division, it is the intent of the city to facilitate the development of the goals, objectives and policies of the housing element of the city's general plan.

9674.2. Density bonus provisions.

- A. In addition to any other review required for a proposed housing development, applications for a density bonus shall be filed with the planning director on a form approved by the director. The application shall be filed concurrently with an application for a development plan review or administrative approval. At the time the application is submitted, the applicant shall pay a density bonus application fee, established by resolution of the City Council.
- B. City staff shall process the application for a density bonus in the same manner as, and concurrently with, the application for a development plan review or administrative approval that is required by this Code.
- C. The application shall clearly indicate the number of base units allowed by the City general plan and zoning regulations, the number of density bonus units requested, and the number of affordable units that will be included in the proposed project. The applicant shall submit reasonable documentation to establish eligibility for a requested density bonus, incentives or concessions,

waivers or reductions of development standards, and parking ratios, to the satisfaction of the planning director.

- D. For a housing development qualifying pursuant to the requirements of Government Code Section 65915, the City shall grant a density bonus in an amount specified by Government Code Section 65915. Except as otherwise required by Government Code Section 65915, the density bonus units shall not be included when calculating the total number of housing units that qualifies the housing development for a density bonus. Except as otherwise required by Government Code Section 65915, the amount of the density bonus shall not exceed 35 percent.
- E. For the purpose of calculating the density bonus, the "maximum allowable residential density" shall be the maximum density allowed under the zoning ordinance and land use element of the general plan, or, if a range of density is permitted, the maximum allowable density for the specific zoning range and land use element of the general plan applicable to the project. Where the density allowed under the zoning ordinance is inconsistent with the density allowed under the land use element of the general plan, the maximum density allowed in the general plan shall prevail.
- F. The City shall grant the applicant the number of incentives and concessions required by Government Code Section 65915. The City shall grant the specific concession(s) or incentive(s) requested by the applicant, unless it makes any of the relevant written findings stated in Government Code Section 65915(d). Senior citizen housing developments that qualify for a density bonus shall not receive any incentives or concessions, unless Government Code Section 65915 is amended to specifically require that local agencies grant incentives or concessions for senior citizen housing developments.
- G. Except as restricted by Government Code Section 65915, the applicant for a density bonus may submit a proposal for the waiver or reduction of development standards that have the effect of physically precluding the construction of a housing development incorporating the density bonus and any incentives or concessions granted to the applicant. A request for a waiver or reduction of development standards shall be accompanied by documentation demonstrating that the waiver or reduction is physically necessary to construct the housing development with the additional density allowed pursuant to the density bonus and incorporating any incentives or concessions required to be granted. The City shall approve a waiver or reduction of a development standard, unless it finds that:
 - 1. The application of the development standard does not have the effect of physically precluding the construction of a housing development at the density allowed by the density bonus and with the incentives or concessions granted to the applicant;

2. The waiver or reduction of the development standard would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact;
 3. The waiver or reduction of the development standard would have an adverse impact on any real property that is listed in the California Register of Historical Resources; or
 4. The waiver or reduction of the development standard would be contrary to state or federal law.
- H. The applicant may request, and the City shall grant, a reduction in parking requirements in accordance with Government Code Section 65915(p), as that section may be amended from time to time.
- I. The applicant shall comply with all requirements stated in Government Code Section 65915.
- J. The applicant shall enter into an agreement with the City to ensure the continued affordability of all affordable units or the continued reservation of such units for qualifying senior citizens. Prior to receiving a building permit for any project that receives a density bonus or any incentive, concession, waiver, or reduction of development standards pursuant to this section, such agreement shall be recorded as a covenant against the property.
- K. For any development project that is granted a density bonus or other benefit pursuant to this section, the affordable units that qualify the project as eligible for a density bonus, must be constructed concurrently with or prior to the construction of any market rate units. In addition, the affordable units must be integrated with the market rate units so that there is a mix of affordable and market rate units, if any, in each building of the development project.
- L. An applicant shall not receive a density bonus or any other incentive or concession if the housing development would be excluded under Government Code Section 65915, which includes, but is not limited to, projects that fail to "replace" existing housing units, as required by state law.
- M. The provisions of this subdivision shall be interpreted to fulfill the requirements of Government Code Section 65915. Any changes to Government Code Section 65915 shall be deemed to supersede and govern any conflicting provisions contained herein.
- N. Appeals of any decision of the Planning Commission pursuant to Section 9674.2 shall be heard by the City Council in compliance with Sections 9804.5 through 9804.9 of this article."

SECTION 5. Environmental Findings. The City Council hereby finds, in the exercise of its independent judgment and analysis, that this Ordinance is exempt from the California Environmental Quality Act (CEQA) as there is no possibility that this Ordinance would have a significant impact on the environment pursuant to State CEQA Guidelines Section 15061(b)(3). More specifically, this Ordinance merely incorporates state law, allowing applicants to seek a density bonus pursuant to Government Code Section 65915, as required by state law. This Ordinance does not exempt any future project from CEQA nor does it approve any development project. All projects that are subject to CEQA remain subject to CEQA. A Notice of Exemption has been prepared and will be filed in accordance with CEQA and the State CEQA Guidelines.

SECTION 6. Severability. If any section subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, or contravened by reason of any preemptive legislation, the remaining sections and/or provisions of this Ordinance shall remain valid. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, regardless of the fact that any one or more section(s) or provision(s) may be declared invalid or unconstitutional or contravened via legislation.

SECTION 7. Certification. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same or a summary thereof to be published and posted in the manner required by law.

SECTION 8. Effective Date. This Ordinance shall take effect thirty (30) days after passage.

AYES: (0)
NOES: (0)
ABSENT: (0)
ABSTAIN: (0)

Illece Buckley Weber, Mayor

ATTEST:

Kimberly M. Rodrigues, City Clerk, MMC

APPROVED AS TO FORM:

Candice K. Lee, City Attorney