DENSITY BONUS GUIDELINES

CITY of PERRIS INC. 1911

CITY OF PERRIS
DENSITY BONUS GUIDELINES

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Includes Revisions to Government Code §65915 et. seq. effective 1/1/2025

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INTRODUCTION

In response to a then affordable housing shortage, the State of California enacted the first density bonus law in 1979 to encourage development of low- and moderate-income units. Over time, the law was amended and expanded to recognize the need for housing for households at a wider range of income levels and with specialized needs (i.e., senior, childcare, transitional foster youth, disabled veterans, homeless persons, and students).

The State of California density bonus law is codified as Government Code §§ 65915-65918 (Appendix A). All communities are required to comply with the regulations contained within the State legislation. Density bonus law requires the City to adopt an ordinance that specifies how the City will comply with State requirements. The City of Perris has adopted Perris Municipal Code (PMC) Chapter 19.57 to implement density bonus law. These guidelines are intended to

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assist property owners, developers, and City staff to implement Government Code §§ 65915-65918 and Perris Municipal Code (PMC) Chapter 19.57. As these guidelines are a simple text description of State density bonus law and do not introduce any regulation beyond what is required under State law, they do not need to be adopted by the Planning Commission and/or City Council. Accordingly, they may be updated from time to time to keep them consistent with changes to the State regulations.

Types of Assistance

The intent of a density bonus is to provide a package of incentives intended to make the development of affordable and special housing needs economically feasible. A project may be eligible for multiple types of assistance; however, the project developer may not use every option available. The types of assistance that are available for an eligible project include:

- Density Increase – An increase in the maximum number of dwelling units than what is allowed by the zoning or general plan land use designation for the property.
- Incentives and Concessions - A reduction in a development standard or other requirement; approval of mixed-use zoning; or other regulatory incentives which result in identifiable and actual cost reductions for the project.
    - Incentive for Childcare – An affordable housing project that also provides on-site childcare may be eligible for additional incentives.
- Maximum Parking Requirements – A reduction in the maximum amount of parking required for a project.
- Waivers or Reductions of Development Standards – The reduction or waiver of any development standard that would physically prevent the project from being built at the permitted density and with the granted concessions/incentives.

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ELIGIBILITY

Any housing development, including mixed-use development, with five or more units is eligible for a density bonus. In order to qualify, the housing development or mixed-use project must meet one of the following categories listed in Table 1. When multiple income levels are listed for a category, only one income level needs to be met (e.g., if a development project provides 5% very-low income and 10% low income, it would be eligible for the benefits under the very-low-income category). Once a project is determined to be eligible, please refer to the density bonus, parking, incentives/concessions, and waivers sections of these guidelines.

Table 1 – Projects Eligible for Density Bonuses

	Very-Low Income	Low-Income	Moderate-Income
Units for Rent	5% of total units	10% of total units	--
Units for Sale	5% of total units	10% of total units	10% of total units
Shared Housing Building	5% of total units	10% of total units	--
Housing for Transitional Foster Youth	10% of total units	--	--
Housing for Disabled Veterans	10% of total units	--	--
Housing for Homeless Persons	10% of total units	--	--
College Students	--	20% of total units	--
Commercial Development	15% of total units	30% of total units	--
Condominium Conversion	15% of units converted	33% of units converted	33% of units converted
Senior Citizen Housing or Senior Shared Housing Building	At least 35 dwelling units or a mobile home park that limits residency based on age.		
Donation of Land	One-acre of land	--	--
Incentive for Childcare	Affordable housing project that meets one of the eligibility requirements listed above.		

What's Not Eligible

Projects that remove existing affordable dwelling units and do not propose to replace the units with equivalent size units with the same affordability income level are not eligible for density bonus, reduced parking, incentives/concessions, or waivers (see replacement unit section for additional requirements).

GENERAL REQUIREMENTS.

The following requirements shall apply to all density bonus projects:

1. **Fractional Units** – When calculating the number of base density and bonus density dwelling units allowed for a project, partial numbers shall be rounded up to the next whole number (e.g., 20.3 units would equal 21 units).

2. **Mixed Income Development** – If a housing development qualifies for a density bonus under more than one eligibility category, the applicant shall select which category they wish to utilize. Density bonuses from more than one category may not be combined, except as allowed under the additional density bonus section of these guidelines.

3. **General Plan & Zoning Consistency** – The granting of a density bonus, in and of itself, shall not be interpreted as requiring a General Plan amendment, Zoning Map amendment, or other discretionary approval.

4. **Financial Incentives** – The provisions of Government Code §§ 65915-65918, PMC Chapter 19.57, and these guidelines do not require or limit the City from providing direct financial incentives, including the provision of publicly owned land or the waiver of fees or dedication requirements. Financial incentives shall be provided at the sole discretion of the City Council.

5. **Increased Density Limit** – A housing development shall not exceed the cumulative total of base units allowed by the underlying zone and the allowed bonus density units. Incentives, concessions, or development standard waivers cannot be used to further increase density.

6. **Reduced Density** – An eligible housing development with a density bonus may elect to provide a lesser percentage of density increase than what is allowed including, but not limited to, no increase in density. In these cases, the applicant remains eligible for concessions or incentives, waivers of development standards, and reduced parking.

7. **Fees** – Affordable housing impact, inclusionary zoning, and in-lieu fees cannot be imposed on affordable units.

8. **Base Density** – The base density is the maximum amount of density allowed under the zoning designation. If no density is listed in the zoning code (e.g., a commercial zone), then the developer may submit a base density study to determine the realistic base

density for the site. Under density bonus law, the City shall approve the base density study as long as the proposed based density complies with all objective development standards applicable to the project.

9. **No Elimination of Amenities** – The courts have ruled that City's cannot make a developer of a density bonus project to reduce or eliminate project amenities or redesign a project to avoid waivers or reductions of development standards. An example of this is a developer requesting a waiver of the height limit to provide a density bonus project. The City cannot require the developer to reduce the proposed plate height of each floor to avoid the waiver.

ALLOWED DENSITY INCREASE

Rental, Ownership, and Shared Housing Units

A housing development with rental, ownership, or shared housing units is entitled to increase density as follows.

Table 2 – Allowed Density Increase for Rental, Ownership, and Shared Units

	Density Bonus Percentage		
Percentage of Base Units Proposed	**Very Low Income**	**Low Income**	**Moderate Income**
5%	20%	-	-
6%	22.5%	-	-
7%	25%	-	-
8%	27.5%	-	-
9%	30%	-	-
10%	32.5%	20%	5%
11%	35%	21.5%	6%
12%	38.75%	23%	7%
13%	42.5%	24.5%	8%
14%	46.25%	26%	9%
15%	50%	27.5%	10%
16%	50%	29%	11%
17%	50%	30.5%	12%
18%	50%	32%	13%
19%	50%	33.5%	14%
20%	50%	35%	15%
21%	50%	38.75%	16%
22%	50%	42.5%	17%
23%	50%	46.25%	18%
24%	50%	50%	19%
25%	50%	50%	20%
26%	50%	50%	21%
27%	50%	50%	22%
28%	50%	50%	23%
29%	50%	50%	24%
30%	50%	50%	25%

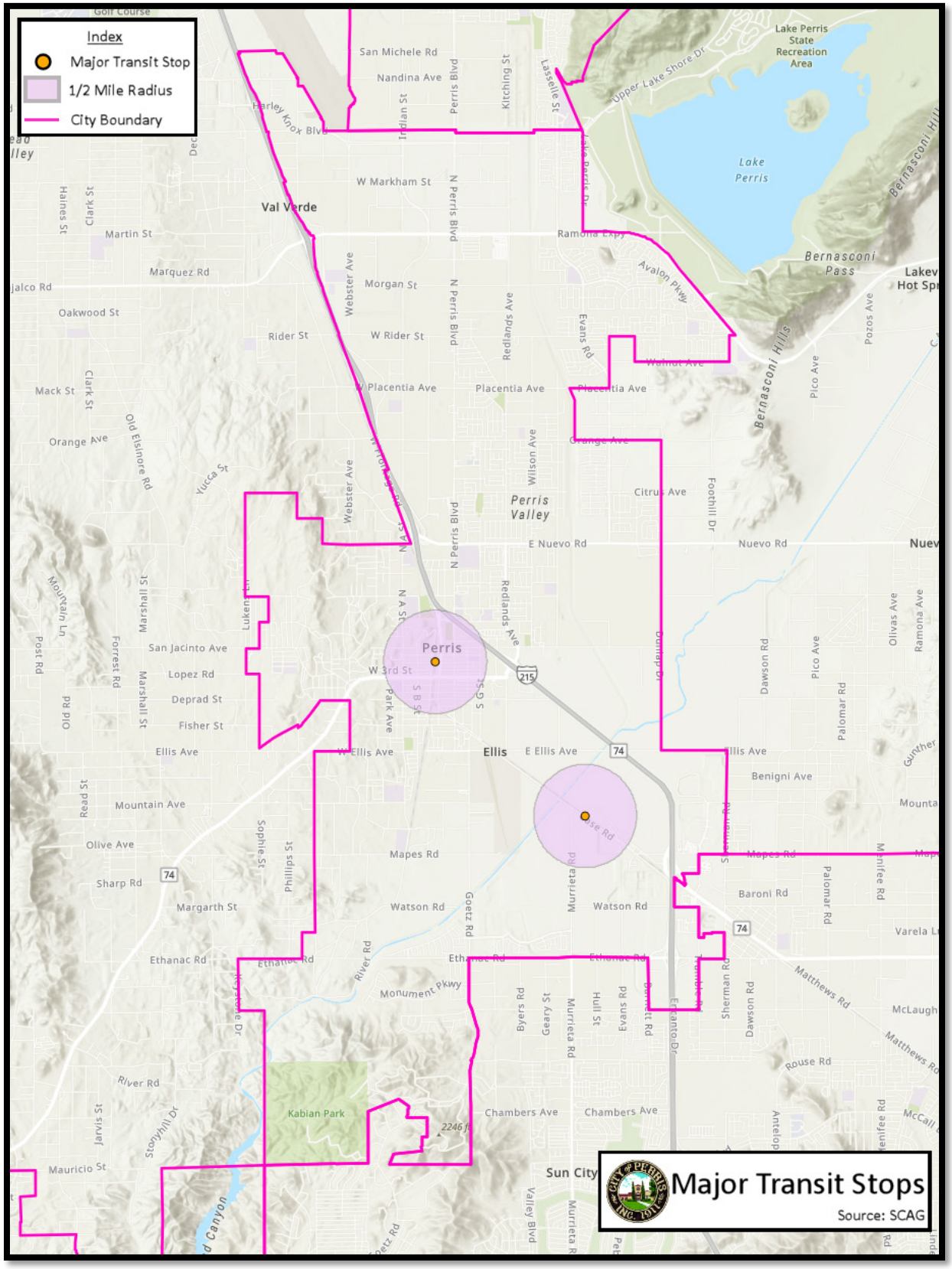
Percentage of Base Units Proposed	Very Low Income	Low Income	Moderate Income
31%	50%	50%	26%
32%	50%	50%	27%
33%	50%	50%	28%
34%	50%	50%	29%
35%	50%	50%	30%
36%	50%	50%	31%
37%	50%	50%	32%
38%	50%	50%	33%
39%	50%	50%	34%
40%	50%	50%	35%
41%	50%	50%	38.75%
42%	50%	50%	42.5%
43%	50%	50%	46.25%
44%	50%	50%	50%
100%	80%	80%	80%

In some cases, the City cannot apply a density limit. To qualify for unlimited density, the housing development must consist of 100% affordable units (exclusive of the manager's unit) that are designated for very-low and low-income households, except that up to 20% of the total units (including density bonus units) in the housing development may be designated for moderate-income households. In addition to providing the affordable units, one of the following shall apply:

1. The housing development is located within one-half (½) mile of a major transit stop with unobstructed access to said major transit stop (see Figure 1); or

2. The housing development is located in a very low vehicle travel area (see Figure 2).

Figure 1


Index
Major Transit Stop
1/2 Mile Radius
City Boundary
Major Transit Stops
Source: SCAG
Perris
Ellis
Val Verde
Perris Valley
Sun City
Lake Perris
Lake Perris State Recreation Area
Bernasconi Pass
Kabian Park
San Michele Rd
Nandina Ave
Harley Knox Blvd
Indian St
Perris Blvd
Kitching St
Lasselle St
Upper Lake Shore Dr
W Markham St
N Perris Blvd
Martin St
Marquez Rd
Morgan St
Oakwood St
Rider St
W Rider St
Placentia Ave
Webster Ave
Redlands Ave
Evans Rd
Avalon Pkwy
Pico Ave
Pozos Ave
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Orange Ave
Citrus Ave
Foothill Dr
Wilson Ave
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Nuevo Rd
Yucca St
Old Elsinore Rd
Clark St
Mack St
Marshall St
Forrest Rd
San Jacinto Ave
Lopez Rd
Deprad St
Fisher St
Ellis Ave
W Ellis Ave
E Ellis Ave
W 3rd St
Park Ave
Dunlap Dr
Dawson Rd
Palomar Rd
Olivas Ave
Ramona Ave
Benigni Ave
Mountain Ave
Olive Ave
Sharp Rd
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Mapes Rd
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Baroni Rd
Varela Rd
Phillips St
Goetz Rd
Murrieta Rd
Sherman Rd
Ethanac Rd
River Rd
Monument Pkwy
Byers Rd
Geary St
Hill St
Evans Rd
Dawson Rd
Matthews Rd
McLaughlin
Rouse Rd
Chambers Ave
Jarvis St
Stoneyhill Dr
Mauricio St
Read St
Post Rd
Old Rd
Mountain Ln
Lukens Ln
Webster Ave
Redlands Ave
Dunlap Dr
Olivas Ave
Ramona Ave
Gunther
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Murrieta Rd
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Pomerado
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Lake Perris State Recreation Area
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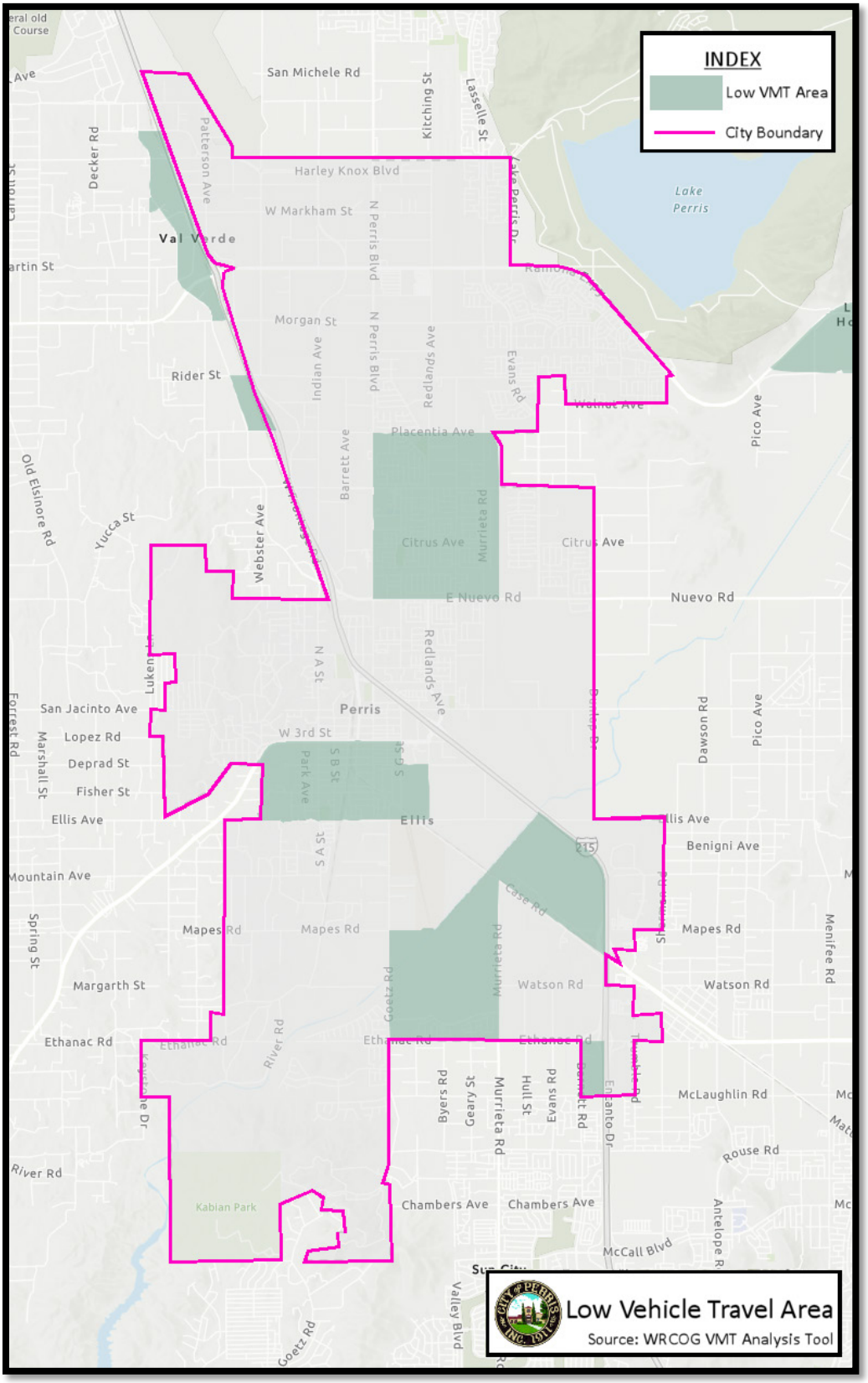
Monument Pkwy
Mapes Rd
Watson Rd
Baroni Rd
Varela Rd
Matthews Rd
Rouse Rd
Chambers Ave
Kabian Park
Sun City

Figure 2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Low VMT Area
City Boundary
Low Vehicle Travel Area
Source: WRCOG VMT Analysis Tool
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Hull St
Valley Blvd
Antelope Rd
Menifee Rd
Spring St
Marshall St
Forrest Rd

Special Requirements on Shared Housing Buildings

For shared housing buildings that either provide 5% of the units for very-low-income households or 10% for low-income households, the City cannot require a minimum unit size or minimum bedroom count for the shared units (the City can apply minimum to the non-shared units in the same project), provided the shared housing units meet the requirements of the building code.

Additional Density Bonus

Typically, only one income level would apply towards density bonuses, but in certain circumstances, an applicant can stack density bonuses. To be eligible, the minimum percentage of unit in one of the following minimum income levels need be provided:

1. 15% of the units are restricted and affordable to families with very-low income;
2. 24% of the units are restricted and affordable to families with low income; or
3. 44% of the units are restricted and affordable to families with moderate income.

In these cases, a housing development may provide additional affordable units in the very-low or moderate categories and would be entitled to an additional increase in density as follows.

Table 3 – Additional Density Increase

	Density Bonus Percentage	
Percentage of Base Units Proposed	Very Low Income	Moderate Income
5%	20%	20%
6%	23.75%	22.5%
7%	27.5%	25%
8%	31.25%	27.5%
9%	35%	30%
10%	38.78%	32.5%
11%	-	35%
12%	-	38.75%
13%	-	42.5%
14%	-	46.25%
15%	-	50%

The density bonus amounts listed in Table 3 are cumulative to the amounts listed in Table 2. For example, a development that provides 15% of the units for very-low income families and 15% of the units for moderate income families would be allowed a 100% density bonus (50% for the very-low income households and 50% for the moderate income households).

Limitations

When a developer uses both the standard density bonus and additional density bonus, no more than 50% of the units provided shall be income restricted.

Transitional Foster Youth, Disabled Veterans, or Homeless Persons.

A housing development where at least 10% of the units are for transitional foster youth, disabled veterans, or homeless persons, with rents restricted at the very low-income level, are entitled to a density bonus of 20%.

Density Bonus for Lower Income College Students.

A student housing development that reserves at least 20% of the units for low-income students is entitled to a density bonus of 35%. For the purposes of student housing developments, a dwelling unit is one bed and its pro-rata share of common areas.

To qualify for this density bonus, the following shall be met:

- ❑ All the units must be used exclusively for undergraduate, graduate, or professional students who are enrolled full-time at an institution of higher education.
- ❑ The institution must be accredited by either the Western Association of Schools and Colleges or the Accrediting Commission for Community and Junior Colleges.
- ❑ The student housing must be owned or leased by the institution of higher education.
- ❑ All units in the student housing shall be exclusively occupied by the students of the institution.
- ❑ The institution of higher education shall either directly operate the student housing or shall enter into a operating agreement with a third party entity for its operation.
- ❑ Priority for the affordable units shall be given to lower-income students experiencing homelessness.
- ❑ The rent for affordable units shall be calculated at thirty (30) percent of sixty-five (65) percent of the area median income for a single-room occupancy unit.

Notes on student housing:

- If the institution of higher learning does not have sufficient low-income student enrollment to fill the income restricted units during the school year, then the units could be used for non-income restricted students.

- Students experiencing homelessness can either be verified by a homeless service provider (see definitions) or directly by the institution of higher education if they have knowledge of a person's homeless status.

The area median income for a single-room occupancy unit is the same as the area median income for a one-person family. Determining the maximum monthly rent is a three-step process. Using a $61,200 AMI for a one-person household, the maximum monthly rent would be $994.

Commercial Development

A commercial development that has entered into an agreement to provide affordable housing, either through a joint project or two separate projects, is eligible for a density bonus. The agreement must be between the commercial developer and a housing developer and shall identify how the commercial developer will contribute to the affordable units. This can include, but may not be limited to, the commercial developer building the units, donation of land to the

housing developer, or the commercial developer making a cash payment to the housing developer. The agreement must be reviewed and approved by the City.

The housing development can either be constructed on the site of the commercial development or on a site that meets all the following criteria:

1. The housing development site is within Perris's city limits.
2. The housing development site is in close proximity to public amenities including schools and employment centers.
3. The housing development site is within one-half mile of a major transit stop.

The number and type of density bonus, incentive/concession, and/or waiver shall be based on the mutual agreement between the City and developer. This may include, but is not limited to, any of the following:

- Up to a 20% increase in maximum allowable intensity in the General Plan.
- Up to a 20% increase in maximum allowable floor area ratio.
- Up to a 20% increase in maximum height requirements.
- Up to a 20% reduction in minimum parking requirements.
- Use of a limited-use/limited-application elevator for upper floor accessibility.
- An exception to a zoning ordinance or other land use regulation.

Nothing in this section shall preclude an affordable housing developer from seeking a density bonus, concessions or incentives, waivers or reductions of development standards, or parking ratios allowed.

Notes on Commercial Development

- If the housing developer does not commence with construction of the affordable units in accordance with timelines ascribed by the agreement, the City may withhold certificates of occupancy for the commercial development under construction until the developer has completed construction of the affordable units.
- The City is not permitted to reduce or waive fees that were adopted by an ordinance for the commercial development.

- State provisions to allow density bonuses for commercial developments sunset on January 1, 2028, unless the State extends the deadline.

Condominium Conversions

When converting apartments to condominiums, an applicant can request a density bonus to increase the number of units on the property. The applicant has the option of providing either 15% of the total units for very low-income residents or 33% of the total units for low- and/or moderate-income residents.

Unlike other density bonuses, condominium conversions have the additional restrictions:

- The City shall grant either a density bonus of up to 25% to create additional units or grant another incentive of equivalent financial value provided.
- All units, including income restricted units, shall be provided on-site.
- The applicant agrees to pay for the reasonably necessary administrative costs, including, but is not limited to, staff costs, consultant fees, photocopy costs, and mailing fees, incurred by the City.
- Apartments which are proposed for conversion to condominiums shall be ineligible for a density bonus or other incentive if the apartments were previously granted a density bonus, concession, incentives, or waiver or reduction of development standards.
- The condominium conversion shall comply with all requirements of the Subdivision Map Act, as well as Title 18 (Subdivisions) of the Perris Municipal Code.

The City is permitted to require such reasonable conditions on the granting of a density bonus or other incentives of equivalent financial value as it finds appropriate, including, but not limited to, conditions which assure continued affordability of units to subsequent purchasers who are persons and families of very low-, low- and moderate-income households.

Preapplication Process. An applicant may submit to the City a preliminary application for the condominium conversion on a form provided by the Director. Within ninety (90) days of receipt of the preliminary application, the City shall notify the applicant in writing whether the application is eligible for a condominium conversion pursuant to this section.

Senior Housing Development

A senior housing development that has at least 35 units is eligible for a 20% increase in density above the units allowed by the base zoning. To qualify as a senior housing development, the units must be age restricted such that at least one occupant of every unit in the development is least

55 years old. For purposes of density bonus law, residential care facility for the elderly are considered senior housing.

Mobile Home Parks

Like senior housing developments, mobile home parks that are age restricted such that at least one occupant of every unit in the mobile home park is least 55 years old is eligible for a 20% density increase. However, mobile home parks do not need to meet the 35 unit minimum.

Donation of Land

A housing developer may donate land for the development of very low-income housing to obtain a density bonus. The amount of land to be donated must be at least one acre and be large enough to accommodate the percentage of base units proposed under the general plan and zoning designation, with a 40 unit minimum.

The allowed density increased for land donation is as follows:

Table 4 – Allowed Density Increase for Land Donation

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

These increases to density may be combined with other authorized increases to density, provided the combined density increase does not exceed 35% above the base units allowed by the zoning designation.

In order to qualify for a density bonus through donation of land, all of the following must be met:

- The general plan and zoning designation of the donated land shall accommodate at least 30 dwelling units per acre. A general plan amendment and rezone to accommodate an increase in density may be part of the application.

- The donated land is, or will be, served by adequate public facilities and infrastructure for the housing development.

- The donated land is either within the boundary of the housing development, or upon approval of the reviewing authority, within one-quarter (¼) mile of the boundary of the housing development.

- The land shall be donated and transferred to the City or a housing developer that is approved by the City. The applicant shall donate and transfer the land no later than the date of approval of the final subdivision map, or issuance of building permits for a housing development where no subdivision is required.

- The City shall not approve the final subdivision map or issue building permits for the housing development unless and until all permits, other than building permits, for the development of very low-income housing have been issued for the donated and transferred land.

- The source of funding for the development of very low-income housing on the donated and transferred land shall be identified not later than the date of approval of the final subdivision map or issuance of building permits for the housing development.

- The donated and transferred land and the affordable units shall be subject to a deed restriction recorded on the property at the time of transfer ensuring continued affordability of the units.

PARKING REQUIREMENTS

Maximum Parking Requirement

Notwithstanding any other code, regulation, or ordinance, for a housing development that is eligible for a density bonus, the City may not require parking above the following minimum parking ratios:

Table 5 – Maximum Parking Requirements

Dwelling Unit Size	Onsite Parking per Unit
Studio to 1 Bedroom	1 space
2 to 3 Bedrooms	1.5 spaces
4 or more Bedrooms	2.5 spaces

Special Parking Requirements

In the following circumstances, a lower parking requirement applies:

Table 6 – Special Parking Requirements

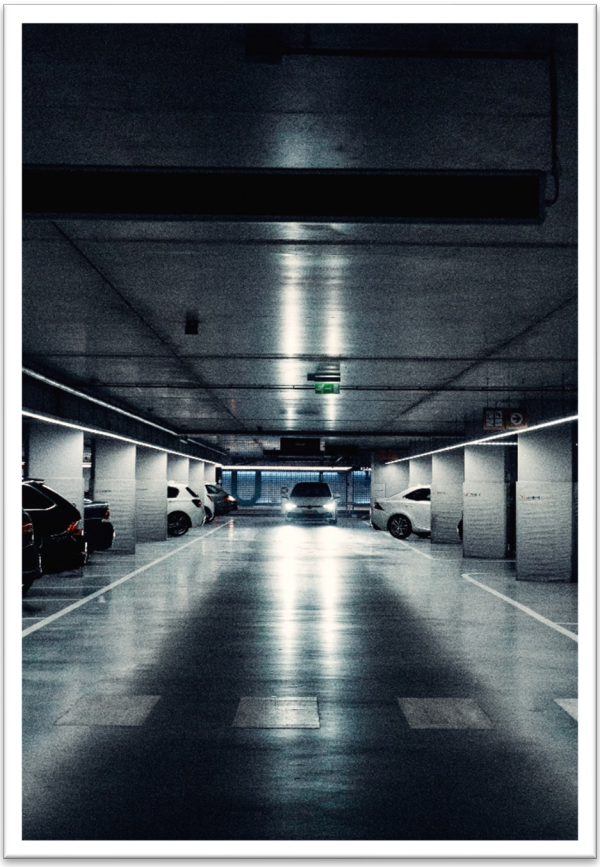
Circumstance	Parking Requirement
A housing development with at least 20% low-income units and is located within one-half (½) mile of a major transit stop with unobstructed access	0.5 spaces per unit
A housing development with at least 11% very low-income units and is located within one-half (½) mile of a major transit stop with unobstructed access	0.5 spaces per unit
Rental housing project or shared housing building that is 100% affordable to low-income, exclusive of the manager's unit, that is located within one-half (½) mile of a major transit stop with unobstructed access from the housing development.	No parking required
A housing development that is for-rent to individuals who are 62 years of age or older and has either paratransit service or unobstructed access within one-half (½) mile to a fixed bus route that operates at least eight times per day.	No parking required
A special needs housing development that has either paratransit service or unobstructed access within one-half mile of a fixed bus route that operates at least eight times per day.	No parking required

Circumstance	Parking Requirement
A supportive housing development that has either paratransit service or unobstructed access within one-half mile of a fixed bus route that operates at least eight times per day	No parking required

Exception to Special Parking Requirements

The City may impose a higher parking requirement than what is listed in Table 5; however, to do so the City must conduct an areawide or jurisdiction-wide parking study (parking studies that are over seven years old are not considered valid for this purpose). The parking study must include, but may not be 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.

If the City makes a finding that there is substantial evidence, based on the parking study, that a higher parking ratio is needed, then the City can apply the higher parking ratio, up to the maximum parking requirements set forth in Table 4.



Additional Parking Standards

Except as modified by these guidelines, all other provisions of Perris Municipal Code Chapter 19.69 (Parking and Loading Standards) shall apply.

Location of Parking. A housing development may provide on-site parking through uncovered or tandem parking. On-street parking shall not be counted towards meeting parking requirements.

Rounding. 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.

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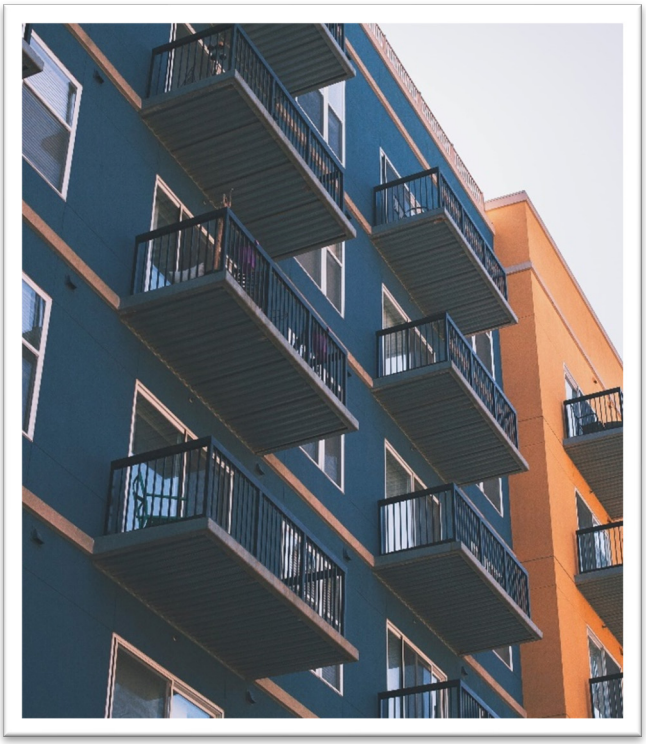
INCENTIVES/CONCESSIONS

An incentive/concession is an identifiable and actual cost reduction of a housing development. This can mean any of the following:

- A reduction in the development standards, including but not limited to, a height limitation, a setback requirement, a floor area ratio, an open space requirement, a reduced parking requirement in excess of the provisions identified above, or architectural design requirements (provided the reduction of the architectural design standard does not violate the building code).

- Approval of a mixed-use project in conjunction with the housing development, if the nonresidential portion of the mixed-use project will reduce the cost of the housing development; is compatible with the residential portion of the housing development; and is compatible with adjacent existing or planned development.



- A reduction or waiver of any City imposed fee or dedication of land. It is important to note that approval of a fee reduction or waiver of fee and/or dedication of land shall be at the sole discretion of the City Council and is not required to be approved.

- Any other regulatory incentives that will result in identifiable, financially sufficient, and actual cost reductions.

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Number of Incentives/Concessions Allowed

The following is the number of incentives/concessions allowed for qualified housing developments.

Table 7 – Incentives/Concessions

Number Allowed	Very-Low Income Percentage	Low Income Percentage	Moderate Income Percentage	Low Income Student Housing Percentage
1	5%	10%	10%	20%
2	10%	17%	20%	-
3	15%	24%	30%	-
4	16%	-	45%	-
5	100% of the units, excluding the manger's unit, with no more than 20% of the units being moderate income.			-

In addition to the four incentives or concession, housing development projects that provide 100% of the units, excluding the manager's unit, for affordable income groups (no more than 20% of the units to be for moderate income) and meet one of the following criteria are eligible for a height increase of up to three additional stories, or 33 feet

1. The project is located within one-half (½) mile of a major transit stop with unobstructed access (see Figure 1); or

2. The project is located within a very low vehicle travel area (see Figure 2).

Incentives for Housing with Childcare Facilities.

A density bonus eligible housing development that also includes a childcare facility, other than a large or small family day care home, that will be located on the same site as the development, shall be eligible for one the following incentives.

1. An amount of residential floor area equal to or greater than the floor area of the childcare facility; or

2. An incentive that contributes to the economic feasibility of the childcare facility (e.g., reduction of development standards, reduced parking requirements, or a financial incentive if approved by the City Council).

The incentive for childcare is in addition to the number of allowed incentives listed in Table 7.

City Approval of Incentive for Childcare

The City shall require, as a condition of approving the housing development with childcare, that:

1. The childcare facility shall remain in operation at least as long as the density bonus units are required to remain affordable; and
2. The children that attend the childcare facility shall come from families that meet the same mix of income as the density bonus units. As an example, if 5% of the units are very-low income and 10% percent of the units are low income, then 5% of the children shall come from very-low income families and 10% children shall come from low income families.

The City may deny a request to provide a density bonus for a childcare facility if it finds, based upon substantial evidence, that the community has adequate childcare facilities.

Documentation for Incentive/Concession

The City may ask the applicant to provide documentation establishing that an incentive or concession is necessary to make the housing units economically feasible. Notwithstanding this, the burden to disprove the concessions or incentives falls upon the City. This is to say that if the City disagrees with the applicant's finding that the incentive/concession is needed to make the units economically feasible, then the City would be required to prepare, at their own cost, any additional analysis to dispute the finding.

Findings for Denial

When an applicant makes a request for an incentive or concession, State law requires the City to approve the request, unless, based on substantial evidence, the City adopts one or more of the following findings:

1. The incentive or concession is not required in order to provide affordable housing costs or for rents for the targeted units to be set;
2. The incentive or concession would have a specific adverse impact upon public health and safety, or on any real property 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- and moderate-income households; or
3. The incentive would be contrary to state or federal law.

IMPORTANT NOTE: The requirement to approve an incentive or concession does not apply to a request for a direct financial incentive from the City. The City Council, in their sole discretion, has the right to approve or deny any direct financial incentive, including the provision of publicly owned land or the waiver of fees or dedication requirements.

WAIVERS OR REDUCTIONS OF DEVELOPMENT STANDARDS

In addition to requesting an incentive or concession, an applicant for a density bonus may also submit a proposal to the City to waive or reduce an unlimited number of development standards that would otherwise preclude or inhibit construction of the housing development at the densities or with the incentives permitted.

Does not Reduce Incentives/Concessions

The applicant's request to waive or reduce a development standard does not reduce the available incentives/concessions to which they qualify for.

IMPORTANT NOTE: The California Appellate Court has ruled that a developer cannot be required to reduce or remove amenities, nor can they be forced to redesign the project to avoid the need for a waiver or reduction of development standards. (see Banker's Hill 150 v. City of San Diego, 74 Cal. App. 5th 755 (2022))

Unlimited Density Projects

If a housing development, which provides 100% affordable units (see Allowed Density Increase section of these guidelines), receives a waiver from the maximum allowed density and is located within one-half (½) mile of a major transit stop with unobstructed access is only eligible for a height increase of up to three additional stories, or 33 feet. The City may approve, but is not required to approve, additional waivers.

Findings for Denial

When an applicant makes a request for a waiver or reduction to a development standard, State law requires the City to approve the request, unless, based on substantial evidence, the City adopts one or more of the following findings:

1. The waiver or reduction of development standards would have a specific adverse impact upon public health or safety, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact.
2. The waiver or reduction of development standards would have an adverse impact on any real property listed in the California Register of Historical Resources.
3. The waiver or reduction of development standards would be contrary to state or federal law.

STANDARDS

Design and Distribution of Affordable Units.

Affordable units shall be designed and distributed within the housing development as follows:

- **Number of Bedrooms.** Affordable units shall reflect the range of numbers of bedrooms provided in the residential development project as a whole;
- **Comparable Quality and Facilities.** Affordable units shall be comparable in the facilities provided (e.g., laundry, recreation, etc.) and in the quality of construction and exterior design to the market-rate units;
- **Access.** In mixed-income multi-unit structures, the occupants of the affordable housing units shall have the same access to common entrances and any common areas including parking areas in that structure as the occupants of the market-rate housing units;
- **Size.** Affordable units may be smaller and have different interior finishes and features than the market-rate units; and
- **Location.** Affordable units shall be distributed within the residential development, unless clustering is allowed by the review authority. Notwithstanding, in a mixed-income multi-unit structure, affordable units shall not be isolated to a specific floor or an area of a specific floor.

Replacement of Rental Units.

An application for a density bonus on any property with existing, vacated, or demolished rental units that are/were subject to a recorded affordable housing covenant or are/were occupied by very low- or low-income households shall be subject to the following:

- **Occupied Units.** For dwelling units that are occupied on the date of the application, the housing development shall provide at least the same number of affordable units of equivalent size to be made available at affordable rent or affordable housing cost to, and occupied by, persons or families in the same or lower income category as those households in occupancy.
- **Vacant or Demolished Units.** For rental dwelling units that have been vacated or demolished within the five years preceding the application, the housing development shall provide at least the same number of affordable units of equivalent size as existed at

the highpoint of those units in the five years 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.

- **Unknown Household Income.** If the income of the existing occupants or occupants within the past five years is unknown to the City or the applicant, it shall be rebuttably presumed that the rental dwellings units were occupied by low-income and very low-income renter households as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database.

  The database can be found at https://www.huduser.gov/portal/datasets/cp.html.

Affordability Covenant Required.

The applicant shall record a covenant to the property guaranteeing that the affordability of the dwelling units for at least 55 years, or a longer time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program. The affordability of the units shall be as follows:

Rental Units: Monthly rents for density bonus units shall not exceed 30% of the monthly AMI for target income group; and

Owned Units: Owner-occupied units shall be available at an affordable housing cost as defined in Health and Safety Code Section 50052.5.

Occupancy and Resale of Ownership Units.

Occupancy

Upon initial occupancy of the ownership unit, the City will need to work with the developer to ensure the dwelling unit is either:

1. Initially owned and occupied by a person or family whose household income meets the target AMI for which the density bonus was granted; or

2. Is purchased by a qualified nonprofit housing corporation pursuant to a contract that is recorded to the property. The contract shall include all of the following:

   a. Giving the qualified nonprofit housing corporation the first right of refusal on the sale or conveyance of the property;

   b. An equity sharing agreement;

c. Affordability restrictions on the sale and conveyance of the property to ensure that the property will be preserved for the target income group for at least 45 years.

Any qualified nonprofit housing corporation that purchases the property shall be a 501(c)(3) that is based in California. All of the board members of the nonprofit also are required to have their principal place of residence in California.

Resale

If an owner of an affordable unit wishes to sell or otherwise convey the unit, they must share a portion of the equity of the dwelling unit with the City. As part of the approval of the affordable ownership unit, the developer and the City will enter into an equity sharing agreement, which will be recorded to the property. The equity sharing agreement shall specify the following:

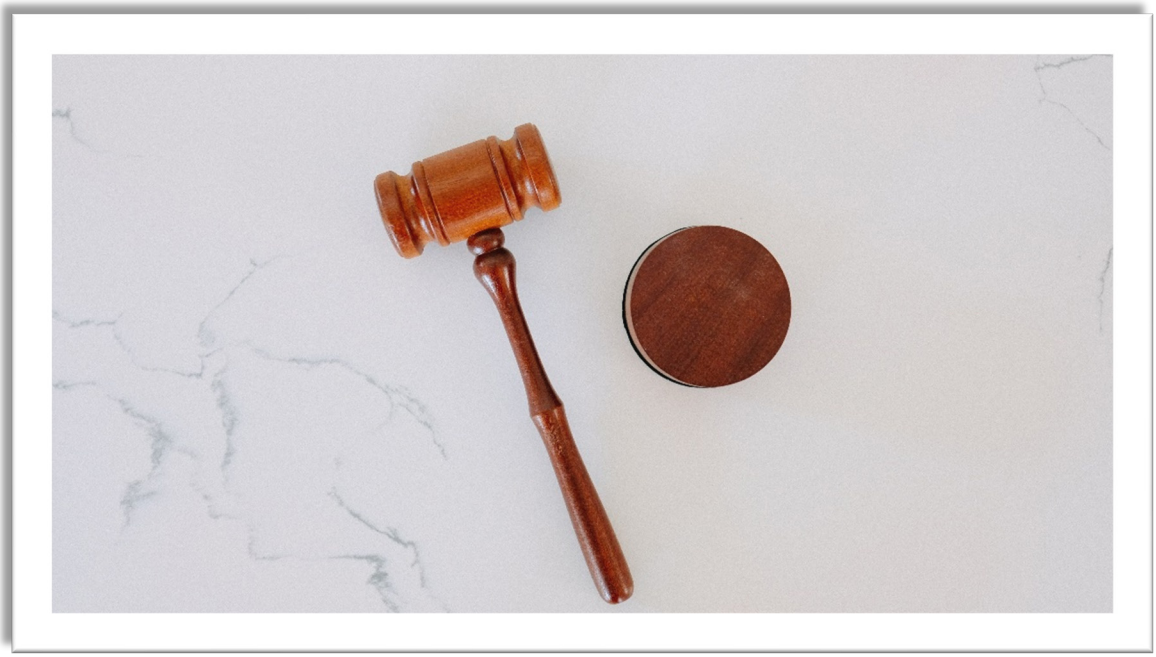
- The seller of the unit shall retain the value of any improvements, the down payment, and the seller's proportionate share of appreciation; and
- The City shall recapture any initial subsidy and its proportionate share of appreciation.

The City must use their share within five years towards increasing, improving, and preserving the community's supply of affordable housing.

Notes on equity sharing of ownership unit

- *The City's initial subsidy is equal to the fair market value of the home at the time of initial sale, minus the initial sale price, plus the amount of any down payment 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.*
- *The City's proportionate share of appreciation shall be equal to the ratio of the initial subsidy to the fair market value of the home at the time of initial sale.*
- *The initial subsidy includes any incentives granted by the City and shall be equal to the monetary equivalent of the incentives.*

APPROVAL PROCESS



Affordable Housing Implementation Plan

The application used to review density bonus requests is the Affordable Housing Implementation Plan (AHIP). Perris Municipal Code Section 19.57 provides the standards for review and approval of the AHIP. The AHIP will be considered concurrently with any other entitlement required for the development. The application for the AHIP should include:

- A legal description of the project site.
- A letter specifying the density bonus, incentives/concessions, and waivers being requested.
- A vicinity map showing uses and transit.
- Project plans (site plan, floor plan, elevations, etc.).
- Description of existing dwelling units on the site, if applicable.
- Supporting information for the incentives/concessions and waivers.

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All AHIPs are reviewed by the Planning Commission unless the request includes providing direct financial incentives, including the provision of publicly owned land or the waiver of fees or dedication requirements, in which case the City Council will be the deciding body.

Affordable Housing Agreement.

As part of the approval of an AHIP, PMC Section 19.57 requires the applicant enter into an Affordable Housing Agreement (AHA). The AHA, which will be reviewed by the City Attorney and Director, shall be executed in a recordable form prior to the issuance of a building permit for any portion of a housing development and shall be binding upon all future owners and successors in interest.

The AHA will include items such as:

- Identification and details about the affordable units.
- Length of term of affordability.
- Maximum Allowable Rent or Sales Price.
- Maximum allowable deposit amount for rental units.
- The rules and procedures for qualifying tenants, establishing affordable rent, filling vacancies, and maintaining the affordable units for qualified tenants.
- Provisions requiring owners to verify tenant incomes and maintain books and records to demonstrate compliance with this chapter.
- Provisions requiring owners to submit an annual report to the City.
- Prohibition of subletting of rental units or renting of ownership units.
- Requirements of the sale of ownership units, such as equity sharing agreements, limits on resale to target income groups, etc.

DEFINITIONS

"**Affordable Housing**" means housing for which the allowable housing expenses paid by a qualifying household shall not exceed a specified fraction of the county median income, adjusted for household size. This includes housing designated for extremely low-, very low, low-, and moderate-income households.

"**Base Density**" means the maximum allowable residential density allowed under the zoning, specific plan, or general plan. Density shall be determined using dwelling units per acre. However, if the applicable zoning ordinance, specific plan, general plan does not provide a dwelling-units-per-acre standard for density, then the "Realistic Development Capacity" shall be used.

"**Childcare Facility**" means a child day care facility, other than a family day care home, including, but not limited to, infant centers, preschools, extended day care facilities, and school-age childcare center. "Childcare facility" does not include public or private primary or secondary education facilities.

"**Condominium Conversion**" means the conversion of apartments, or other rental units, into ownership property that consist of an undivided interest in common in a portion of real property coupled with a separate interest within the boundaries of the dwelling unit.

"**Density Bonus**" means a density increase over the maximum allowable residential density under applicable zoning and Land Use Element of the General Plan as of the date of application.

"**Development Standard"** means a site or construction condition, including, but not limited to, a height limitation, setback requirement, floor area ratio, an on-site open-space requirement, a minimum lot area per unit requirement, or a parking ratio that applies to a housing development pursuant to any ordinance, General Plan policy, specific plan, or other local condition, law, policy, resolution, or regulation that is adopted by City of Newport Beach or that is enacted by the citizens of the City of Newport Beach through a local initiative or referendum power, whether that power is derived from the California Constitution, statute, or the charter or ordinance. Development standard shall not mean an impact fee, inclusionary housing requirement, or dedication of land.

"**Disabled Veteran**" means any veteran who is currently declared by the United States Veterans Administration to be ten (10) percent or more disabled as a result of service in the armed forces. Proof of such disability shall be deemed conclusive if it is of record in the United States Veterans Administration.

"**Equivalent Financial Value**" means an incentive that would result in a reduction in cost to the developer/property owner based upon the land cost per dwelling unit and shall be calculated based upon the difference in the value of the land with and without the density bonus.

"**Equivalent Size**" means that the replacement units contain at least the same total number of bedrooms as the units being replaced.

"**Extremely low-income household**" means persons and families whose income does not exceed thirty (30) percent of the area median income, as published by the California Department of Housing and Community Development, adjusted for family size and revised annually.

"**Foster Youth**" means a person in California whose dependency was established or continued by a court of competent jurisdiction, including a tribal court, on or after the youth's 13th birthday and who is no older than 25 years of age at the commencement of the academic year.

"**Homeless Person**" shall have the same meaning as that phrase is defined in Section 11302 of the federal McKinney-Vento Homeless Assistance Act (42U.S.C. Ch. 119).

"**Housing Development**" means a development project for five (5) or more residential dwelling units, including mixed-use developments, subdivisions, or common interest development. A "housing development" may consist of residential units, unimproved residential lots, a project to substantially rehabilitate and convert an existing commercial building to residential use, or the substantial rehabilitation of an existing multifamily dwelling where the result of the rehabilitation would result in a net increase in available residential units. For purposes of calculating a density bonus, the residential units shall be on contiguous sites that are the subject of one (1) development application but may include more than one subdivision map.

"**Low-income household**" means persons and families whose income is greater than fifty (50) percent but does not exceed eighty (80) percent of the area median income, as published by the California Department of Housing and Community Development, adjusted for family size and revised annually.

"**Lower Income Student**" means a student who has 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 Education Code Section 69432.7(k)(1). The eligibility of a student to occupy a unit for lower income students under this section shall be verified by an affidavit, award letter, or letter of eligibility provided by the institution of higher education in which the student is enrolled 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.

"**Major Transit Stop**" means a site containing an existing rail transit station or the intersection of two (2) or more major bus routes with a frequency of service interval of fifteen (15) minutes or less at the intersection of the two (2) routes during both the morning and afternoon peak commute hours.

"**Moderate-income household**" means persons and families whose income is greater than eighty (80) percent but does not exceed one hundred twenty (120) percent of the area median income, as published by the California Department of Housing and Community Development, adjusted for family size and revised annually.

"**Natural or Constructed Impediments**" means a hindrance or obstruction that prevents pedestrian or bicycle access to a major transit stop. Natural or constructed impediments include, but are not limited to, freeways, rivers, mountains, harbors, and bodies of water, but does not include residential structures, shopping centers, parking lots, or rails used for transit.

"**Qualified nonprofit housing corporation**" means a nonprofit corporation whose primary activity is the development and preservation of affordable home ownership housing in California and meets all of the following:

1. The nonprofit corporation has a determination letter from the Internal Revenue Service affirming its tax-exempt status pursuant to Section 501(c)(3) of the Internal Revenue Code and is not a private foundation as that term is defined in Section 509 of the Internal Revenue Code.

2. The nonprofit corporation is based in California.

3. All of the board members of the nonprofit corporation have their primary residence in California.

"**Realistic Development Capacity**" means the estimate number of dwelling units that can be built on the site based on the objective development standards applicable to the project, including, but not limited to, floor area ratio, site coverage, maximum building height and number of stories, building setbacks and step-backs, public and private open space requirements, minimum percentage or square footage of any nonresidential component, and parking requirements.

"**Shared housing building**" means a residential or mixed-use structure, with five or more shared housing units and one or more common kitchens and dining areas designed for permanent residence of more than 30 days by its tenants. The kitchens and dining areas within the shared housing building shall be able to adequately accommodate all residents.

"**Shared housing unit**" means one or more habitable rooms, not within another dwelling unit, that includes a bathroom, sink, refrigerator, and microwave, is used for permanent residence,

that meets the "minimum room area" specified in Section R304 of the California Residential Code (Part 2.5 of Title 24 of the California Code of Regulations) and complies with the definition of "guestroom" in Section R202 of the California Residential Code.

"**Specific Adverse Impact**" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. The following shall not constitute a specific, adverse impact upon the public health or safety: (1) inconsistency with the zoning ordinance or general plan land use designation, or (2) the eligibility to claim a welfare exemption under subdivision (g) of Section 214 of the Revenue and Taxation Code.

"Student Housing Development" means development that contains bedrooms containing two or more bedspaces that have a shared or private bathroom, access to a shared or private living room and laundry facilities, and access to a shared or private kitchen.

"**Unobstructed Access**" means a major transit stop that the income qualified resident of the housing development is able to walk or bike to from the residence without encountering natural or constructed impediments, which include, but are not limited to, freeways, rivers, mountains, harbors and other bodies of water, but does not include residential structures, shopping centers, parking lots, or rails used for transit with legal pedestrian access through the property.

"**Very low-income household**" means persons and families whose income is greater than thirty (30) percent but does not exceed fifty (50) percent of the area median income, as published by the California Department of Housing and Community Development, adjusted for family size and revised annually.

"**Very low vehicle travel area**" means an urbanized area, as designated by the United States Census Bureau, where the existing residential development generates vehicle miles traveled per capita that is below 85% of either regional vehicle miles traveled per capita, or city vehicle miles traveled per capita. Area may include a travel analysis zone, hexagon, or grid.