

CHAPTER 19.89. NO NET LOSS/ DENSITY BONUS PROGRAM

Sec. 19.89.010. Purpose.

This Chapter establishes a No Net Loss/ Density Bonus Program for certain projects to serve a means to ensure compliance with Senate Bill (SB) 330 no net loss requirements, which are set forth in Government Code Section 66300. The Program established by this Chapter provides for a Density Bonus to become available, concurrent with the approval of any change in zone from a residential use to a less intensive or non-residential use for any property within the City's boundaries, to applicants subsequently seeking to develop property for residential use within the areas of the City identified in this Chapter. This will ensure no net loss of residential capacity within the City as required by SB 330.

Sec. 19.89.020. Definitions

The following definitions apply to this Chapter:

- a) *Director.* The Director of Development Services of the City of Perris, or his or her designee.
- b) *Density Bonus.* A density increase granted pursuant to this Chapter of up to the caps specified in this Chapter, or up to the percentages specified in this Chapter above the otherwise-applicable maximum residential density, as applicable.
- c) *Density Bonus Agreement.* A legally binding agreement between a developer of a Housing Development and the City, utilizing a form containing such terms and conditions as determined necessary or appropriate by the City Attorney, which ensures that the requirements of this Chapter are satisfied with respect to a Housing Development being granted a Density Bonus.
- d) *Density Bonus Units.* Those residential units granted pursuant to the provisions of this Chapter that exceed the maximum residential density for the development site and that are available in the Unit Bank.
- e) *Housing Development.* A use consisting of residential units, mixed-use developments consisting of residential and nonresidential uses with at least two-thirds of the square footage designated for residential use.
- f) *Maximum Residential Density.* The maximum number of residential units permitted by the City's General Plan Land Use Element and zoning designation applicable to the property that is the subject of a Housing Development application, excluding the additional units permitted by this Chapter and excluding any other available density bonuses including those permitted under Perris Municipal Code Chapter 19.57.
- g) *Program.* The No Net Loss/Density Bonus Program established by this Chapter.
- h) *Unit Bank.* The number of units available to the Program at any given time. Units enter the Unit bank as a result of a change of zone from a residential use to a less intensive residential use or non-residential use, and are removed from the Unit bank by the granting of Density Bonuses for Housing Developments in accordance with the provisions of this Chapter. The Director shall have the sole authority to administer and maintain the Unit Bank balances, credits and availability as he or she determines, which determination shall be final.

Sec. 19.89.030. Requirements for Projects to Utilize the Program to Comply with SB 330

Applicants requesting a general plan amendment, specific plan amendment or zone change of property from a residential land use or zoning designation to a less intensive or manufacturing, business park, or commercial land use, or zoning designation must meet the following requirements to be eligible to propose transfer of the lost residential capacity from the project site to the Unit Bank to comply with SB 330:

- a) Projects that include industrial warehouses, or distribution facilities are not eligible under the Program. Eligible uses include industrial manufacturing, business parks, and commercial uses.
- b) The project applicant must submit a written request to the Director to opt in to the Program while the applicant's development project application is pending with the City.

Sec. 19.89.040. Requirements for Housing Developments Receiving Density Bonuses through the Program.

The City shall grant a Density Bonus through the Program to Housing Development projects that meet the following criteria:

- a) The Housing Development project applicant requests the Density Bonus in accordance with Section 19.89.070;
- b) The Housing Development Project is on a site of at least one acre.
- c) The Housing Development Project is either:
 - (1) In the Riverglen Specific Plan (RSP) area; or
 - (2) In a residential zone located outside the RSP area (whether in another specific plan area or not in any specific plan area) provided the project site is located within a two-mile radius of either one of the two existing Metrolink stations in the City, when measured from the nearest property line of the parcel containing the Metrolink station to any property line of the project site.
- d) No Density Bonus shall be granted for any Housing Development site or portion thereof that is any of the following, as determined by the Director:
 - (1) In a conservation area;
 - (2) In a high- or very high fire hazard severity zone;
 - (3) In the Housing Opportunity Areas Overlay Zone (HOAO);
 - (4) In Zone A, B1, or B2 of the March ARB/IP Airport Overlay Zone (MAOZ); or
 - (5) Subject to other legally applicable land use compatibility- or density-related restrictions (excluding Maximum Residential Density as defined in this Chapter) or covenants that are inconsistent with the granting of a Density Bonus pursuant to the Program.
- e) In determining the number of Density Bonus Units to be granted pursuant to this Section, the maximum allowable Density Bonus for the Housing Development project shall be as follows, subject to available Unit Bank balance:
 - (1) If the Housing Development site is in the RSP area, up to a residential density of 30 du/per acre inclusive of the Maximum Residential Density and the Density Bonus, subject to applicable General Plan and specific plan limitations;
 - (2) If the site is in another specific plan area, up to a 30% increase to the Maximum Residential Density for the project site (or eligible portion thereof), subject to applicable General Plan and specific plan limitations; and

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- (3) If the site is in a residential zone that is not within a specific plan area, up to a 30% increase to the Maximum Residential density for the project site (or eligible portion thereof), subject to applicable General Plan limitations.
 - f) Density bonuses in the Program can be combined with other available density bonuses, such as those available under Perris Municipal Code Chapter 19.57.
 - g) The number of Density Bonus Units awarded under the Program shall not exceed the number of units in the Unit Bank.
 - h) A Density Bonus Agreement shall be required for any project seeking a Density Bonus pursuant to this Chapter. Any Density Bonus Agreement shall require consistency with applicable Residential Zone applicable development and parking standards and consistency with applicable Specific Plan development and parking standards.

Sec. 19.89.050. Types of Bonuses and Incentives Allowed.

- a) *Density Bonus.* The Density Bonus allowed by this Chapter shall consist of those density increases specified in Section 19.89.040 above the Maximum Residential Density.
- b) *Mixed Use Development.* Mixed-use development consisting of residential and nonresidential uses with at least two-thirds of the square footage designated for residential use may receive a Density Bonus under the Program if the mixed-use development is permitted by the applicable City zoning designation and the residential portion of the development meets the requirements of this Chapter for Housing Developments. The density bonus will be granted only for the residential portion of the mixed-use development.

Sec. 19.89.060. Development Standards.

The development standards of the City's applicable zoning designation for the subject property shall be met. Granting a Density Bonus does not constitute approval of or grounds for modification or waiver of any development standard or other requirement of the Perris Municipal Code.

Sec. 19.89.070. Processing of Program Density Bonus requests.

Density Bonuses pursuant to this Chapter shall be processed as part of the corresponding Housing Development application. The process for obtaining preliminary approval of the Density Bonus Agreement shall be as follows:

- a) *Filing.* An applicant proposing a Housing Development pursuant to this Chapter shall submit an application for a Density Bonus Agreement as part of the submittal of any formal request for approval of a Housing Development. The application, whether a pre-application or a formal application, shall include:
 - (1) A brief description of the proposed Housing Development, including the total number of units, and the number of Density Bonus Units proposed;
 - (2) The zoning classification and General Plan land use designation and assessor's parcel number(s) of the project site;
 - (3) A vicinity map and preliminary site plan, drawn to scale, including building footprints, driveways, and parking layout;
 - (4) If an additional incentive or program available under the Perris Municipal Code or the Housing Element is requested, a description of why the additional incentive or program is applicable to the Density Bonus Units; and

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- (5) Any additional information and submittal requirements as noted on the Comprehensive Development Application.
 - b) Review of Program Density Bonus Request.
 - (1) Within 90 days of receipt of the complete application for a Density Bonus Agreement, the Director shall provide to the applicant a letter that identifies project issues of concern and the procedures for compliance with this Chapter. However, failure to do so shall not result in the application being deemed approved.
 - (2) If additional incentives or programs such as density bonuses under Perris Municipal Code Chapter 19.57 are requested by an applicant in accordance with State law, Title 19 of the Perris Municipal Code, and/or the Housing Element, as applicable, the City shall process such additional requests in accordance with the laws applicable to such requests. If mutually agreed by the parties, provisions related to such other requests may be included in or consolidated with the Density Bonus Agreement, subject to compliance with applicable requirements related to such requests. For example, if a density bonus is requested under Perris Municipal Code Chapter 19.57 based on inclusion of deed-restricted affordable units in the Housing Development, the agreement for such units must be recorded on title to the subject property and meet the other applicable requirements for an Affordable Housing Agreement pursuant to Section 19.57.070.

Sec. 19.89.080. Program Density Bonus Agreement

- a) The terms of the draft Density Bonus Agreement (the “Agreement”) shall be reviewed and revised as appropriate by the City Manager or his/her designee, who shall formulate a recommendation to the applicable approving authority of the Housing Development for final approval.
- b) At a minimum, the agreement shall include the following:
 - (1) The total number of units proposed within the Housing Development;
 - (2) A schedule for completion and occupancy of the units;
 - (3) A description of any additional incentive being provided by the City under State law, Title 19 of the Perris Municipal Code, or the Housing Element;
 - (4) A description of remedies for breach of the agreement by either party;
 - (5) Any other provisions necessary or appropriate to ensure implementation and compliance with this Chapter; and
 - (6) Provisions related to additional incentives or programs such as density bonuses under Perris Municipal Code Chapter 19.57 that are requested by an applicant in accordance with State law, Title 19 of the Perris Municipal Code, or the Housing Element, if mutually agreed and as provided in Section 19.89.070(b)(2).

Sec. 19.89.090. Implementation.

- a) The provisions of this Chapter shall be administered by the Director, except where otherwise specified. Project approval processes are established in Title 19 of the Perris Municipal Code and applicable specific plans.
- b) Projects requesting Density Bonuses through the Program are subject to this Chapter in addition to processing through all other applicable provisions of the Title 19 of the Perris Municipal Code and applicable specific plans. Nothing in this Chapter requires the City to grant any zone change or other project approval or otherwise affects the City’s decision-making authority or discretion over any project approval.