

ORDINANCE NO. 863 N.S.

AN ORDINANCE OF THE CITY OF EL PASO DE ROBLES
AMENDING TITLE 21 (ZONING) OF THE MUNICIPAL CODE
TO ESTABLISH REGULATIONS FOR DENSITY BONUSES AND OTHER
INCENTIVES -- CODE AMENDMENT 03-003

WHEREAS, California Government Code section 65915 et seq. requires local governments to grant density bonuses and “other incentives” for certain housing projects that are affordable to moderate-, low- and very low-income households; and

WHEREAS, Government Code section 65915 requires local governments to adopt an ordinance to implement state law; and

WHEREAS, Housing Element Policy 1.5 calls for the City to “encourage the construction of affordable owner and rental housing for very low, low and moderate income households”; and

WHEREAS, Housing Element Program 1.14 calls for the City to “amend the Zoning Code to provide for the granting of density bonuses and additional incentives in conjunction with the construction of new housing designed and reserved for occupancy by low and very low income households and for the elderly in accordance with State Law”; and

WHEREAS, at its meeting of June 10, 2003, the Planning Commission took the following actions regarding this ordinance:

- a. Considered the facts and analysis, as presented in the staff report prepared for this ordinance;
- b. Conducted a public hearing to obtain public testimony on the proposed ordinance;
- c. Recommended that the City Council adopt the proposed ordinance; and

WHEREAS, at its meeting of July 15, 2003, the City Council took the following actions regarding this ordinance:

- a. Considered the facts and analysis, as presented in the staff report prepared for this ordinance;
- b. Considered the recommendation of the Planning Commission regarding this ordinance;
- c. Conducted a public hearing to obtain public testimony on the proposed ordinance;
- d. Based on the information contained in the Initial Study, the City Council found that there would not be a significant impact on the environment as a result of the adoption of the ordinance and adopted a Negative Declaration in accordance with the California Environmental Quality Act.

NOW, THEREFORE, BE IT KNOWN that the Paso Robles City Council, based upon the substantial evidence presented at the above referenced public hearing, including oral and written staff reports, hereby finds as follows:

1. The above stated facts of this ordinance are true and correct.
2. This ordinance is consistent with the City's General Plan.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1: Chapter 21.16L is hereby added to the El Paso de Robles Municipal Code, the text of which is attached hereto as Exhibit A and incorporated herein by this reference.

SECTION 2: Subsection C of Section 21.23A.020 of the El Paso de Robles Municipal Code is hereby amended to read as follows:

“C. Planning Commission.

1. The planning commission shall have the authority to make final decisions on the following:

- a. Tentative parcel maps;
- b. Development plans;
- c. Tentative tracts;
- d. Waivers (curbs, gutters and sidewalks);
- e. Conditional use permits;
- f. Variances;
- g. Lot line adjustments;
- h. Interpretations of the zoning ordinance;
- i. To modify or overrule all decisions of the development review committee in the manner prescribed by Section 21.23A.080 or upon the filing of an appeal in accordance with Section 21.23A.090.
- j. To modify or overrule all decisions of the zoning administrator upon the filing of an appeal in accordance with Section 21.23A.090.
- k. Density bonus applications in accordance with Section 21.16L.050.”**

SECTION 3: Section 21.23B.040 of the El Paso de Robles Municipal Code is hereby amended to read as follows:

“A. Development Plan. Discretionary review of major development projects to be conducted by the planning commission in conjunction with a noticed public hearing for commercial, industrial, and institutional projects subject to development plan review except for major development projects seeking an increased building height that is greater than the existing limitations prescribed by the zoning ordinance that are subject to discretionary review by the city council.

Approval of development plans shall be subject to findings:

- 1. Set forth in Section 21.23B.050 for major development projects subject to planning commission discretionary review; and
- 2. Set forth in Sections 21.23B.050 and 21.16A.070 for major development projects subject to city council discretionary review.

Conditions may be imposed in order to make the required findings.

- 3. Planned Development District. For development plans located within the planned development (overlay) district, the planning commission shall have the authority to grant modifications to the base zoning district regulations as set forth in Section 21.16A.030, subject to additional findings set forth in Section 21.16A.070. Increases in permitted densities may not be granted.
- 4. For commercial, industrial, and institutional projects subject to development plan review pursuant to Section 21.23B(A)(5), the city council shall have the authority to increase the allowable building heights beyond the existing limitations prescribed by the zoning ordinance as set forth in Section 21.16A.030(4), subject to additional findings as set forth in Section 21.16A.070.
- 5. Density Bonuses and Other Incentives. The Planning Commission or City Council shall have the authority to modify the development standards of underlying residential zoning districts and to modify off-street parking standards for residential development where necessary to implement the provisions of Chapter 21.16L.”**

SECTION 4: Publication. The City Clerk shall cause this ordinance to be published once within fifteen (15) days after its passage in a newspaper of general circulation, printed, published and circulated in the City in accordance with section 36933 of the Government Code.

SECTION 5. Severability. If any section, subsection, sentence, clause, or phrase of the Ordinance is, for any reason, found to be invalid or unconstitutional, such finding shall not affect the remaining portions of this Ordinance.

The City Council hereby declares that it would have passed this ordinance by section, subsection, sentence, clause, or phrase irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases are declared unconstitutional.

SECTION 6. Inconsistency. To the extent that the terms of provisions of this Ordinance may be inconsistent or in conflict with the terms or conditions of any prior City ordinance(s), motion, resolution, rule, or regulation governing the same subject matter thereof and such inconsistent and conflicting provisions of prior ordinances, motions, resolutions, rules, and regulations are hereby repealed.

SECTION 7. Effective Date. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the 31st day after its passage.

Introduced at a regular meeting of the City Council held on July 15, 2003, and passed and adopted by the City Council of the City of El Paso de Robles on the 5th day of August 2003 by the following roll call vote, to wit:

AYES:
NOES:
ABSTAIN:
ABSENT:

Frank R. Mecham, Mayor

ATTEST:

Sharilyn M. Ryan, Deputy City Clerk

Exhibit A

Chapter 21.16L

DENSITY BONUSES AND OTHER INCENTIVES

Sections:

21.16L.010	Purpose
21.16L.020	Definitions
21.16L.030	Regulations for new residential construction
21.16L.040	Regulations for condominium conversions
21.16L.050	Density bonus application
21.16L.060	Review and approval of density bonus application
21.16L.070	Density bonus housing standards
21.16L.080	Density bonus housing agreement as a condition of development
21.16L.090	Eligibility requirements
21.16L.100	Management and monitoring
21.16L.110	Administrative fee for target dwelling units.

21.16L.010 Purpose

The density bonus and other incentives set forth in this Chapter are intended to meet the following objectives:

- A. To implement policies and programs of the Housing Element of the City's General Plan, which encourage the provision of affordable housing in the City by granting density bonuses and other incentives to developers of residential projects that construct or otherwise provide for housing units that will be available for purchase or rent by moderate income, lower income, and very low income persons and households and by senior citizens; and
- B. To implement the mandates for density bonuses and other incentives set forth in California Government Code section 65915 et seq. (the "Density Bonus Law").
- C. As specified in subsections (g) and (i) of section 65915 of the California Government Code, the granting of a density bonus or other incentives shall not be interpreted, in and of itself, to require a general plan amendment, zoning change, or other discretionary approval.
- D. As specified in section 65917 of the California Government Code, the City shall not offer a density bonus or any other incentive in the absence of an agreement by a developer in accordance with section 65915 of the California Government Code that would undermine the intent of the Density Bonus Law.
- E. This Chapter is intended to apply to residential projects consisting of five or more dwelling units. However, on a case-by-case basis, with a development plan application, multi-family properties on which the maximum allowable residential yield is two to four dwelling units may add one additional dwelling unit to meet the needs of one of the household groups defined in Section 21.16L.030.A, if the Planning Commission or City Council find that the additional unit will meet zoning requirements for setbacks, lot coverage, off-street parking, grading limitations, and oak tree preservation. In such cases, "other incentives" consisting of modifications of zoning standards shall be limited to such standards as building separations, open space, laundry rooms, and storage space.

21.16L.020 Definitions

Whenever the following terms are used in this Chapter, unless otherwise apparent from the context or unless inconsistent with a definition provided under state law in which case the definition under state law shall apply, they shall have the meanings established by this section:

- A. "Additional incentive" shall mean any incentive that is offered in addition to the twenty-five percent (25%) density bonus.
- B. "Affordable housing" shall mean housing meeting the requirements set forth in state and, where applicable, federal law, for "very low-income," "low-income," "lower-income," or "moderate-income households."
- C. "Allowable housing expense" shall mean the total monthly or annual recurring expenses required of a household to obtain shelter. For a for-sale unit, allowable housing expenses include loan principal, loan interest, property and mortgage insurance, property taxes, homeowners association dues, and a

reasonable allowance for utilities (sewer, water, gas, trash and electricity). For a rental unit, allowable housing expenses include rent and a reasonable allowance for utilities.

- D. "Condominium project" shall have the same meaning as that set forth in subdivision (f) of section 1351 of the California Civil Code.
- E. "Conversion" shall mean the change of occupancy of a dwelling unit from rental to owner-occupied or vice versa.
- F. "Density bonus (condominium conversions)" shall mean a minimum density increase of at least twenty-five percent (25%) over the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the general plan, at the time of application .
- G. "Density bonus (new residential construction)" shall mean a density increase over the otherwise maximum allowable residential density under the zoning ordinance and land use element of the general plan, at the time of application in the following percentages:
 - 1. At least twenty-five percent (25%) for those projects listed in subsections A.1 through A.3 of Section 21.16L.030;
 - 2. At least ten percent (10%) for those projects listed in subsection A.4 of Section 21.16L.030.
- H. "Density bonus application" shall mean the application submitted by a developer, in conjunction with the development plan submitted pursuant to Section 23.23B for a housing development, requesting from the City a density bonus and additional incentive or an in-lieu incentive.
- I. "Density bonus dwelling units" shall mean those residential units granted pursuant to the provisions of this Chapter which exceed the otherwise maximum allowable residential yield of the project site.
- J. "Density bonus housing agreement" shall mean an agreement between a developer and the City guaranteeing the affordability of rental or ownership units in accordance with the provisions of this Chapter. The density bonus housing agreement shall establish the number of target dwelling units and density bonus dwelling units, the unit sizes, location, affordability tenure, terms and conditions of affordability, and unit production schedule.
- K. "Financial incentive" shall mean any additional incentive or in-lieu incentive offered by the City that consists entirely of financial or monetary assistance.
- L. "Housing development" shall mean a new residential development, substantial rehabilitation, or conversion of existing residential building(s) of five or more residential dwelling units.
- M. "In-lieu incentive" shall mean an incentive offered by the City that is offered in-lieu of the twenty-five percent (25%) density bonus and an additional incentive, but is of equivalent financial value based upon the land cost per dwelling unit(s).
- N. "Incentive" shall mean such regulatory "concession or incentive" as provided in Government Code section 65915(j), to include, but not be limited to, the reduction of site development standards or zoning code requirements, approval of mixed use zoning in conjunction with the housing development, or any other regulatory incentive which would result in identifiable cost reductions to enable the provision of affordable housing or housing for qualifying (senior) residents.
- O. "Low-income household" shall mean that segment of lower-income households that excludes very low-income households, that is, whose gross income is greater than fifty percent (50%), but does not exceed eighty percent (80%) of the median income of San Luis Obispo County as published and periodically updated by the State Department of Housing and Community Development pursuant to section 50093 of the Health and Safety Code.
- P. "Lower-income household" shall mean a household with an income that does not exceed eighty percent (80%) of the median income of San Luis Obispo County, as published and periodically updated by the State Department of Housing and Community Development pursuant to section 50079.5 of the Health and Safety Code.
- Q. "Market-rate unit" shall mean a dwelling unit whose rental rate or sales price is not restricted either by this Chapter or by any other requirement imposed through other local, state, or federal affordable housing programs.
- R. "Maximum allowable residential yield" shall mean the maximum number of residential units permitted on the project site under the development regulations of the underlying zoning district and the Land Use Element of the General Plan as of the date of the developer's application.

- S. “Moderate-income household” shall mean a household whose income exceeds eighty percent (80%) but does not exceed one hundred and twenty percent (120%) of the median income of San Luis Obispo County, as published and periodically updated by the State Department of Housing and Community Development pursuant to section 50093 of the Health and Safety Code.
- T. “Monthly gross income” shall mean moneys derived from all sources except gifts to any household member, and income of minors.
- U. “Partial density bonus” shall mean a density bonus that is less than twenty-five percent (25%).
- V. “Qualifying (senior) resident” shall mean a senior citizen or other person eligible to reside in a senior citizen housing development as defined in section 51.3 of the California Civil Code.
- W. “Target dwelling unit” shall mean a dwelling unit that will be offered for rent or sale exclusively to and which shall be affordable to the designated income group or qualifying (senior) resident, as required by this Chapter.
- X. “Target income level” shall mean the income standards for very low-, low-, lower- and moderate-income levels within San Luis Obispo County as determined annually by the U.S. Department of Housing and Urban Development, and adjusted for household size.
- Y. “Very low income household” shall mean a household with an income that does not exceed fifty percent (50%) of the median income of San Luis Obispo County, as published and periodically updated by the State Department of Housing and Community Development pursuant to section 50105 of the Health and Safety Code.

21.16L.030 Regulations for new residential construction

- A. The City shall either grant a density bonus and at least one additional incentive, as set forth in Section 21.16L.060.D, or an in-lieu incentive of equivalent financial value, as set forth in Section 21.16L.060.D, to an applicant or developer of a housing development of at least five units, who agrees or proposes to construct any one of the following:
 1. A minimum of twenty percent (20%) of the total units of a housing development for lower-income households; or
 2. A minimum of ten percent (10%) of the total units of a housing development for very low-income households; or
 3. A minimum of fifty percent (50%) of the total units of a housing development for qualifying (senior) residents.
 4. A minimum of twenty percent (20%) of the total units of a condominium project for moderate-income households

The density bonus shall not be included when determining the number of housing units that is equal to 10, 20, or 50 percent of the total units. Any resulting decimal fraction shall be rounded to the next larger integer.

- B. In determining the number of density bonus dwelling units to be granted pursuant to the standards of this section, the maximum allowable residential yield for the site shall be multiplied by 0.25 for those projects listed in subsections A.1 through A.3 of this Section and by 0.10 for those projects listed in subsection A.4 of this Section. Any resulting decimal fraction shall be rounded to the next larger integer.
- C. If a developer requests a density increase, pursuant to subsection B of this Section 21.16L.030, of less than twenty-five percent (25%) for a project that qualifies for a density bonus pursuant to subsections A.1 through A.3 of this Section 21.16L.030 or of less than ten percent (10%) for a project that qualifies for a density bonus pursuant to subsection A.4 of this Section 21.16L.030, no reduction in the number of target dwelling units required shall be allowed.
- D. If a developer requests a density increase of more than twenty-five percent (25%) for a project that qualifies for a density bonus pursuant to subsections A.1 through A.3 of this Section 21.16L.030 or of more than ten percent (10%) for a project that qualifies for a density bonus pursuant to subsection A.4 of this Section 21.16L.030, the requested density increase shall be considered an additional density bonus and shall be considered an additional incentive, in accordance with Section 21.16L.060.D. The City Council may, at its discretion, grant an additional density bonus if a written finding is made by the City Council that the additional density bonus is required in order for allowable housing expenses for the proposed housing development to be set as affordable. In granting an additional density bonus, the City may require some portion of the additional density bonus to be designated as target dwelling units.

- E. If a developer agrees to construct both twenty percent (20%) of the total units of a housing development for lower-income households and ten percent (10%) of the total units of the same housing development for very low-income households, the developer shall be entitled to only one density bonus and at least one additional incentive.
- F. A density bonus housing agreement shall be a condition of discretionary permits (i.e., tentative maps, parcel maps, and development plans) for all housing developers who request a density bonus and additional incentive or in-lieu incentive. The relevant terms and conditions of the density bonus housing agreement shall be filed and recorded as a deed restriction on those individual lots or units of a housing development which are designated for the location of target dwelling units. The density bonus housing agreement shall be consistent with Section 21.16L.080.

21.16L.040 Regulations for condominium conversions

- A. The City shall either grant a density bonus or provide an in-lieu incentive of equivalent financial value, as set forth in Section 21.16L.060.D, to an applicant/developer proposing to convert apartments to condominiums, and who agrees to provide the following:
 - 1. A minimum of thirty-three percent (33%) of the total units of the proposed condominium project for low-income or moderate-income households; or
 - 2. A minimum of fifteen percent (15%) of the total units of the proposed condominium project for lower-income households.

The density bonus shall not be included when determining the number of housing units which is equal to thirty-three percent (33%) or fifteen percent (15%) of the total units. Any resulting decimal fraction shall be rounded to the next larger integer.

- B. An applicant/developer proposing to convert apartments to condominiums shall be ineligible for a density bonus or in-lieu incentive under this Section 21.16L.040 if the apartments proposed for conversion constitute a housing development for which a density bonus or in-lieu incentive was previously provided under the provisions of this Chapter.
- C. In determining the number of density bonus dwelling units to be granted pursuant to the standards of this Section 21.16L.040, the number of existing apartment units within the structure or structures proposed for conversion shall be multiplied by 0.25. Any resulting decimal fraction shall be rounded to the next larger integer.
- D. If a density increase of less than twenty-five percent (25%) is requested, no reduction in the number of target dwelling units required shall be allowed.
- E. A density bonus housing agreement shall be made a condition of the discretionary permits (tentative maps, parcel maps, and development plans) for all condominium conversion proposals that request a density bonus or in-lieu incentive. The relevant terms and conditions of the density bonus housing agreement shall be filed and recorded as a deed restriction on those individual lots or units of a housing development that are designated for the location of target dwelling units. The density bonus housing agreement shall be consistent with the terms of Section 21.16L.080.

21.16L.050 Density bonus application

- A. All developers applying for a density bonus, additional incentive and/or in-lieu incentive pursuant to this Chapter 21.16L, shall submit such density bonus application in conjunction with a development plan application pursuant to Chapter 21.23B, which may be processed simultaneously with other applications for general plan amendments, rezones, and/or subdivision (tract or parcel) maps. Target dwelling units shall be designated on the project plans. All applicants/developers shall be provided with a copy of this Chapter and all required application forms.
- B. Preliminary Application. An applicant/developer proposing a density bonus housing development may, prior to the submittal of any formal requests for approvals of such housing development, submit a preliminary application to the Community Development Director. The preliminary application shall include the following information:
 - 1. A brief description of the proposal including the number of target dwelling units and density bonus units proposed;
 - 2. The zoning, general plan designations and assessors parcel number(s) of the project site;

3. A site plan, drawn to scale, which includes: building footprints, driveway and parking layout, building elevations, existing contours and proposed grading;
4. A letter identifying what specific incentives (i.e., standards modifications, density bonus, or fee subsidies) are being requested of the City; and
5. In the case of a request for any incentive(s), a pro forma for the proposed housing development.

Within ninety (90) days of receipt of the preliminary application, the Community Development Director shall provide to an applicant/developer a letter that identifies: (i) issues of concern; (ii) the density bonus and/or incentive that the Community Development Director may recommend to the Planning Commission or City Council; and (iii) the procedures for compliance with this Chapter.

- C. Density Bonus Application Submittal. In addition to the information required by Section 21.23B.130, the completed density bonus application, submitted as part of the applicant's/developer's development plan application(s), shall include the following information:
1. A legal description of the total site proposed for development of the target dwelling units including a statement of present ownership and present and proposed zoning;
 2. A letter signed by the applicant/developer stating what incentive, if any, is being requested from the City;
 3. Site plans, designating the total number of units proposed on the site, identifying the number and locations of target dwelling units, and supporting plans per the application submittal requirements; and
 4. In the case of a condominium conversion request, a report documenting the following information for each unit proposed to be converted: the monthly gross income of tenants of each unit throughout the prior year, the monthly rent for each unit throughout the prior year, and vacancy information for each unit throughout the prior year.

Any applicant/developer applying for an additional incentive or in-lieu incentive shall submit supporting financial documents with the density bonus application. Such financial documents shall support or establish that the incentive is necessary to provide for affordable housing costs.

21.16L.060 Review and approval of density bonus application

- A. Planning Commission Review. Except for those density bonus applications that request a financial incentive, the Planning Commission shall have the authority to review and act upon an application for a density bonus, additional incentive, and/or in-lieu incentive. A final decision by the Planning Commission shall be appealable to the City Council pursuant to Sections 21.23A.100 and 21.23A.110.
- B. City Council Review. If the density bonus application involves a request to the City for direct financial incentives, then the Planning Commission shall make a recommendation to the City Council, which shall take final action on the density bonus application.
- C. A density bonus application shall be evaluated for conformance with the density bonus housing standards set forth in Section 21.16L.070.
- D. Additional incentive and in-lieu incentive
 1. An additional incentive or in-lieu incentive, as defined in Sections 21.16L.020 A and M, respectively, may include, but is not limited to, the following:
 - a. A reduction in site development standards or a modification of zoning code requirements or architectural design requirements which exceed the minimum building standards approved by the State 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 vehicle parking spaces that would otherwise be required;
 - b. Approval of mixed-use zoning in conjunction with the housing development if mixed-use zoning will reduce the cost of the housing development and if the mixed-use zoning is compatible with the housing development and the existing or planned development in the area where the proposed housing development will be located; or
 - c. Other regulatory incentives or concessions proposed by the developer or the City which result in identifiable and actual cost reductions;

- d. Partial or additional density bonus;
 - e. Subsidized planning, plan check or permit fees; and
 - f. Direct financial aid including, but not limited to redevelopment Low and Moderate Income Housing funding, Community Development Block Grant funding, Home Investment Partnership Act (HOME) funding, or subsidizing infrastructure, land cost or construction costs, or other incentives of equivalent financial value based upon the land costs per dwelling unit.
2. The value of each incentive will vary from project to project. Therefore, each additional incentive or in-lieu incentive shall be determined on a case-by-case basis.
 3. It is within the sole discretion of the City to offer an in-lieu incentive of equivalent financial value, based upon the land cost per dwelling unit, instead of a density bonus and additional incentive.
- E. Except as provided in subsection G of this Section 21.16L.060, upon successful application by a developer, pursuant to Section 21.16L.030 for a new housing development, either (i) a density bonus and at least one additional incentive or (ii) an in-lieu incentive of equivalent financial value shall be granted to qualified lower-income, very low-income, qualifying (senior) resident, and condominium project housing developments.
- F. Except as provided in Subsection G of this Section 21.16L.060, upon successful application by a developer, pursuant to Section 21.16L.040 for a condominium conversion, either (i) a density bonus or (ii) an in-lieu incentive of equivalent financial value shall be granted to qualified lower-income, low-income, and moderate-income housing developments.
- G. Exceptions.
1. Pursuant to California Government Code section 65915, the City is not required to approve an additional incentive if it makes a written finding, based on substantial evidence, of either of the following:
 - a. The incentive is not required in order to provide for affordable housing costs, as defined in section 50052.5 of the California Health and Safety Code, or for rents for the targeted units;
 - b. The incentive would have a specific adverse impact, as defined in paragraph (2) of subdivision (d) of California Government Code 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- and moderate-income households.
 2. Pursuant to California Government Code section 65915.5(e), the City is not required to approve a proposal to convert apartments to condominiums.

21.16L.070 Density bonus housing standards

- A. Required target dwelling units shall be constructed concurrent with market-rate dwelling units unless both the City and the applicant/developer agree within the density bonus housing agreement to an alternative schedule for development.
- B. Target dwelling units shall remain restricted and affordable to the designated group for a period of at least 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, under the following circumstances:
1. Both a density bonus and at least one additional incentive are granted by the City, except for condominium projects;
 2. An in-lieu incentive in the form of a direct financial contribution is granted by the City; or
 3. Any target dwelling unit which is within a condominium conversion.
- C. Target dwelling units shall remain restricted and affordable to the designated group for a period of at least ten (10) years for any target unit for moderate-income households in a condominium project, except as provided in Section 21.16L.070.B.2.

- D. Target dwelling units and density bonus dwelling units shall be built within the housing development, as that term is defined in Government Code section 65915(h).
- E. All housing developments shall comply with all applicable development standards, except those which may be modified as an additional incentive as provided herein. In addition, all units must conform to the requirements of the applicable building and housing codes.
- F. Compatibility. Target dwelling units shall be of similar design and similar quality as the market-rate units. Exteriors and floor plans of target dwelling units shall be similar to the market-rate units; interior features such as luxury flooring, appliances, and lighting fixtures need not be the same.
- G. No target dwelling unit shall be rented or sold except in accordance with this Chapter.
- H. California Government Code section 65915(e) prohibits the City from applying any development standard that will have the effect of precluding the construction of a development meeting the criteria of California Government Code section 65915(b) at the densities or with the concessions or incentives permitted by California Government Code section 65915.
- I. Developers receiving a density bonus and/or additional incentive or in-lieu incentive for a housing development shall use their best efforts to market and provide such housing to persons already residing and/or working in the City.

21.16L.080 Density bonus housing agreement as a condition of development

- A. Any developer requesting a density bonus, additional incentive, or in-lieu incentive pursuant to this Chapter shall execute a density bonus agreement in a form approved by the City Attorney. The density bonus agreement shall be approved by the City Council and shall run with the land and shall be binding on the developers, their heirs, transferees, assigns, successors, administrators, executors and other representatives and recorded on the deed for the requisite time period.
- B. A density bonus housing agreement processed pursuant to this Chapter shall include the following:
 - 1. The number of density bonus dwelling units granted;
 - 2. Incentives and/or financial assistance provided by the city;
 - 3. The number of moderate-income, lower-income, low-income, and/or qualifying (senior) resident dwelling units proposed;
 - 4. The unit size(s) (square footage) of target dwelling units and the number of bedrooms per target dwelling unit;
 - 5. The proposed location of the moderate-income, lower-income, low-income, and/or qualifying (senior) resident target dwelling units;
 - 6. Tenure of restrictions for target dwelling units (of at least ten or thirty years);
 - 7. Schedule for production of target dwelling units;
 - 8. The standards for maximum qualifying incomes for affordable units;
 - 9. The standards for maximum rents or sales prices for affordable units;
 - 10. The process to be used to certify tenant/homeowner incomes;
 - 11. The arrangements with a third party approved by the City for monitoring of the affordable units;
 - 12. A description of how vacancies will be marketed and filled;
 - 13. Restrictions and enforcement mechanisms binding on property upon sale or transfer;
 - 14. Penalties and enforcement mechanisms in event of failure to maintain affordability provisions; and
 - 15. Any other provisions deemed necessary by the City to fulfill the requirements of this Chapter.
- C. Following the approval and the signing by all parties, the completed density bonus housing agreement shall be recorded with the County Recorder's Office and the relevant terms and conditions therefrom filed and recorded as a deed restriction on those individual lots or units of a property which are designated for the location of target dwelling units. The approval and recordation shall take place prior to final map approval, or, where a subdivision or parcel map is not being processed, prior to issuance of building permits for such lots or units.

21.16L.090 Eligibility requirements

Only households meeting the standards for moderate-income households, lower-income households, low-income households, and qualifying (senior) residents as defined in Section 21.16L.020 shall be eligible to occupy target dwelling units.

21.16L.100 Management and monitoring

Rental target dwelling units shall be managed/operated by the developer or his or her agent. Upon request to the developer by the City, each developer of rental target dwelling units shall submit an annual report to the City's Housing Programs Manager identifying which units are target dwelling units, the monthly rent,

vacancy information for each target rental dwelling unit for the prior year, monthly gross income for tenants of each target rental dwelling unit throughout the prior year, and other information as required by the City, while ensuring the privacy of the tenant.

21.16L.110 Administrative fee for target dwelling units

During the density bonus application period and throughout the term of the affordability covenants for the target dwelling units, the City will either directly or, via one or more third parties, provide a number of recurring services associated with the administration and monitoring of such units. Although the provision of some of these services will be within the normal purview of existing City activities, others will involve new costs to the City for which there are no existing funding sources. Therefore, the City Council hereby establishes an administrative fee for target dwelling units, the amount to be established by City Council resolution and paid prior to the issuance of building permit(s). In no event shall such administrative fee exceed the actual cost of providing services pursuant to this Chapter 21.16L.