

Section 18.80.020 Definitions.

“Located within one-half mile of a major transit stop” means that any point on a proposed development, for which an applicant seeks a density bonus, other incentives or concessions, waivers or reductions of development standards, or a vehicular parking ratio pursuant to this section, is within one-half mile of any point on the property on which a major transit stop is located, including any parking lot owned by the transit authority or other local agency operating the major transit stop.

“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 in paragraph (1) of subdivision (k) of Section 69432.7 of the Education Code. 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” has the same meaning as defines in subdivision (b) of Section 21155 of the Public Resources Code.

“Qualified nonprofit housing corporation” means a nonprofit housing corporation organized pursuant to Section 501(c)(3) of the Internal Revenue Code that has received a welfare exemption under Section 214.15 of the Revenue and Taxation Code for properties intended to be sold to low-income families who participate in a special no-interest loan program.

“Total units” or “total dwelling units” means a calculation of the number of units that:

- 1. Excludes a unit added by a density bonus awarded pursuant to this section or any local law granting a greater density bonus.**
- 2. Includes a unit designated to satisfy an inclusionary zoning requirement of a city, county, or city and county.**

Section 18.80.050 Density bonus requirements, calculations and location.

- A. *Density Bonus Development Requirements. Upon written request of an applicant, the approving body for a housing development shall grant one density bonus as specified under subsection B of this section and if requested by the applicant and consistent with the applicable requirements of this chapter, incentives or concessions, pursuant to Section 18.80.060, waivers or reductions of development standards, and parking ratios, as described in Section 18.80.070 when the applicant for a housing development seeks and agrees to construct a housing development, excluding any units permitted by the density bonus awarded pursuant to this chapter, that will contain at least any one of the following:*
1. *Ten (10) percent of the total units of a housing development for rental or sale to lower income households, as defined in Section 50079.5 of the Health and Safety Code.*
 2. *Five (5) percent of the total units of a housing development for rental or sale to very low-income households, as defined in Section 50105 of the Health and Safety Code.*
 3. *A senior citizen housing development, as defined in Sections 51.3 and 51.12 of the Civil Code, or a mobile home park that limits residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the Civil Code.*
 4. *Ten (10) percent of the total dwelling units of a housing development are sold to in a common interest development, as defined in Section 4100 of the Civil Code, for persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code, provided that all units in the development are offered to the public for purchase.*
 5. *Ten (10) percent of the total units of a housing development for transitional foster youth, as defined in Section 66025.9 of the Education Code, disabled veterans, as defined in Government Code Section 18541, or homeless persons, as defined in the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. Section 11301 et seq.). The units described in this paragraph shall be subject to a recorded affordability restriction of fifty-five (55) years and shall be provided at the same affordability level as very low income units.*
 6. ~~*For the purposes of this section, “total units” or “total dwelling units” does not include units added by a density bonus awarded pursuant to this section or any local law granting a greater density bonus.*~~

6. Twenty (20) percent of the total units for lower income students in a student housing development that meets the following requirements:
 - a. All units in the student housing development will be used exclusively for undergraduate, graduate, or professional students enrolled full time at an institution of higher education accredited by the Western Association of Schools and Colleges or the Accrediting Commission for Community and Junior Colleges. In order to be eligible under this subclause, the developer shall, as a condition of receiving a certificate of occupancy, provide evidence to the city that the developer has entered into an operating agreement or master lease with one or more institutions of higher education for the institution or institutions to occupy all units of the student housing development with students from the institution or institutions. An operating agreement or master lease entered into pursuant to this subclause is not violated or breached if, in any subsequent year, there are not sufficient students enrolled in an institution of higher education to fill all units in the student housing development.
 - b. The applicable 20-percent units will be used for lower income students.
 - c. The rent provided in the applicable units of the development for lower income students shall be calculated at 30 percent of 65 percent of the area median income for a single-room occupancy unit type.
 - d. The development will provide priority for the applicable affordable units for lower income students experiencing homelessness. A homeless service provider, as defined in paragraph (3) of subdivision (e) of Section 103577 of the Health and Safety Code, or institution of higher education that has knowledge of a person's homeless status may verify a person's status as homeless for purposes of this subclause.
7. For purposes of calculating a density bonus granted pursuant to this section, the term "unit" as used in this section means one rental bed and its pro rata share of associated common area facilities. The units described in this subparagraph shall be subject to a recorded affordability restriction of 55 years.
8. One hundred (100) percent of all units in the development, including total units and density bonus units, but exclusive of a manager's unit or units, are for lower income households, as defined by Section 50079.5 of the Health and Safety Code, except that up to 20 percent of the units in the development, including total units and density bonus units, may be for

moderate-income households, as defined in Section 50053 of the Health and Safety Code.

~~B. The amount of density bonus authorized under subsection A shall be calculated pursuant to subsection C.~~ An applicant who requests a density bonus pursuant to this section shall elect whether the bonus shall be awarded on the basis of subsection A.1, A.2, A.3, A.4 ~~or A.5,~~ **A.6 or A.8.**

1. For housing developments meeting the criteria of subsection A.1, the density bonus shall be calculated as follows:

Percentage Low-Income Units	Percentage Density Bonus
10	20
11	21.5
12	23
13	24.5
14	26
15	27.5
16	29
17	30.5
18	32
19	33.5
20	35
21	38.75
22	42.5
23	46.25
24	50

2. For housing developments meeting the criteria of subsection A.2, the density bonus shall be calculated as follows:

Percentage Very Low-Income Units	Percentage Density Bonus
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35
12	38.75
13	42.5
14	46.25
15	50

3. For housing developments meeting the criteria of subsection A.3, the density bonus shall be twenty (20) percent of the number of senior housing units.
4. For housing developments meeting the criteria of subsection A.5, the density bonus shall be twenty (20) percent of the number of the type of units giving rise to a density bonus under that subsection.
- ~~5. For housing developments meeting the criteria of subsection A.4, the density bonus shall be calculated as follows:~~
5. For housing developments meeting the criteria of subsection A.6, the density bonus shall be thirty-five (35) percent of the student housing units.
6. For housing developments meeting the criteria of subsection A.8, the following shall apply:
 - a. Except as otherwise provided in section b, the density bonus shall be eighty (80) percent of the number of units for lower income households.
 - b. If the housing development is located within one-half mile of a major transit stop, the city shall not impose any maximum controls on density.
7. For housing developments meeting the criteria of subsection A.4, the density bonus shall be calculated as follows:

Percentage Moderate-Income Units	Percentage Density Bonus
10	5
11	6
12	7
13	8
14	9
15	10
16	11
17	12
18	13
19	14
20	15
21	16
22	17
23	18
24	19
25	20
26	21
27	22

28	23
29	24
30	25
31	26
32	27
33	28
34	29
35	30
36	31
37	32
38	33
39	34
40	35
41	38.75
42	42.5
43	46.25
44	50

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

~~D. *Total Density Bonus Limit.* In no event shall the total density bonus awarded pursuant to this chapter exceed thirty-five percent.~~

E.D. *Location of Density Bonus Units.* The density bonus units shall be permitted in geographic areas of the housing development other than the areas where the units for the lower income households are located.

F. E. *Design Requirements.* Affordable units developed in conjunction with a market rate development shall be of similar design and quality as the market rate units. Exterior and floor plans of affordable units shall be similar to the market rate units; interior finishes need not be the same.

G. F. *Location Distribution Requirements for Affordable Units.* Affordable units shall be dispersed throughout the housing development rather than clustered in a single area or a few areas. Location of affordable units with a housing development shall be approved by the approving body.

H. G. *Except as provided in Section 18.80.060, the granting of a density bonus shall not require or be interpreted to require the waiver of a local ordinance or provisions of a local ordinance unrelated to development standards.*

H. *Nothing prohibits the city from granting a density bonus greater than what is described in this section for a development that meets the requirements of this section or from granting a proportionately lower density bonus than what is required by this section for developments that do not meet the requirements of this section. (Ord. 1792 § 1, 2018; Ord. 1719 § 1, 2010)*

Section 18.80.060 Concessions or incentives.

A. *Evidence for Concession and Incentives. An applicant for a density bonus pursuant to Section 18.80.050 may submit to the community development department a proposal for the specific incentives or concessions that the applicant requests pursuant to this chapter and may request a meeting with the director of community and economic development or his/her designee to discuss the proposal. However, the approving body shall grant the concession or incentive requested by the applicant pursuant to subsection B unless the city council makes a written finding, based upon substantial evidence, of any of the following:*

- 1. The concession or incentive does not result in identifiable and actual cost reductions, consistent with the definition of “concession(s)” or “incentive(s)” in Section 18.80.020, to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in Section 18.80.100.*
- 2. The concession or incentive would have a specific adverse impact, as defined in Government Code Section 65589.5(d)(2), as the same may be amended from time to time, upon the public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact without rendering the development unaffordable to low-income and moderate income households.*
- 3. The concession or incentive would be contrary to state or federal law.*

B. *Number of Incentives or Concessions. The applicant shall receive the following number of incentives or concessions as provided in Table 18.80.060.B.*

Table 18.80.060.B

Additional Density Bonus Concessions or Incentives

Household Income of Units	Percentage of Units	Concessions or Incentives
Very Low-Income	5 %	1
	10 %	2

	15 %	3
Lower Income	10 %	1
	20 % 17 %	2
	30 % 24 %	3
Moderate Income Units in Common Interest Development	10 %	1
	20 %	2
	30 %	3
Lower Income Students in a Student Housing Development	20 %	1

- C.** Four (4) incentives or concessions for a project meeting the criteria in Section 18.80.050.A.8. If the project is located within one-half mile of a major transit stop, the applicant shall also receive a height increase of up to three additional stories, or 33 feet.
- ~~C.~~**D.** *Nothing in this chapter shall be interpreted to require the city to grant an incentive or concession that has a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5 of the Government Code, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Nothing in this chapter shall be interpreted to require the city to grant an incentive or concession that would have an adverse impact on any real property that is listed in the California Register of Historical Resources.*
- E.** The granting of a concession or incentive shall not require or be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, study, or other discretionary approval. For purposes of this section, “study” does not include reasonable documentation to establish eligibility for the concession or incentive or to demonstrate that the incentive or concession meets the definition set forth in this chapter.
- F.** This section does not limit or require the provision of direct financial incentives for the housing development, including the provision of publicly owned land, by the city, or the waiver of fees or dedication requirements.
- ~~D.~~ **G.** *In no case may the city apply any development standard that will have the effect of physically precluding the construction of a development meeting the criteria of this section at the densities or with the concessions or incentives permitted by this chapter.*
- ~~E.~~ **H.** *Waiver of Development Standards. An applicant may submit to the community development department a proposal for the waiver or reduction of development*

standards that will have the effect of physically precluding the construction of a development meeting the criteria of this section at the densities or with the concessions or incentives permitted under this chapter. The waiver or reduction of development standards must comply with the following conditions and requirements:

1. Nothing in this section shall be interpreted to require the city to waive or reduce development standards if the waiver or reduction would have a specific, adverse impact, as defined in Government Code Section 65589.5(d)(2), as the same may be amended from time to time, upon ~~the~~ health or safety, ~~or the physical environment~~, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact.
2. Nothing in this section shall be interpreted to require the city to waive or reduce development standards that would have an adverse impact on any real property that is listed in the California Register of Historical Resources or to grant any waiver or reduction that would be contrary to state or federal law.
3. A proposal for the waiver or reduction of development standards pursuant to this section shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to this section.
- ~~4. The applicant shall show by substantial evidence that the waiver or modification is necessary to make the housing units economically feasible.~~
4. A housing development that receives a waiver from any maximum controls on density pursuant to Section 18.80.050.B.6.b shall only be eligible for a waiver or reduction of development standards as provided in Section 18.80.060.C and 18,80.050.B.6.b unless, the city agrees to additional waivers or reductions of development standards.
5. Any discretionary actions for modification or waiver shall be processed in conjunction with the housing development application. However, regardless of whether the housing development application required a public hearing, such a hearing shall be held before the planning commission if a discretionary action is required. (Ord. 1792 § 1, 2018; Ord. 1719 § 1, 2010)

Section 18.80.070 Parking standards.

- A. *Maximum Parking Requirements for Density Bonus Units. Except as provided in subsections B, ~~and C and D~~, upon request of the applicant, the city shall not require a vehicular parking ratio, inclusive of accessible and guest parking to the entire housing development that meets the criteria of Sections 18.80.050 and 18.80.100 that exceeds the following ratios:*
1. Zero to one bedroom: One on-site parking space.
 2. Two to three bedrooms: ~~Two~~ **One and one-half** on-site parking spaces.
 3. Four and more bedrooms: Two and one-half parking spaces.
- B. *Notwithstanding subsection A of this section, if a development includes **at least 20 percent** ~~the maximum percentage of~~ low-income units for housing developments meeting the criteria of Section 18.80.050.A.1 or **at least 11 percent** very low-income units for housing developments meeting the criteria of ~~provided for in~~ Section ~~18.80.050.B.1 and B.2~~ 18.80.050.A.2, ~~and~~ is located within one-half mile of a major transit stop, ~~as defined in subdivision (b) of Section 21155 of the Public Resources Code~~, and there is unobstructed access to the major transit stop from the development, then, upon the request of the developer, the city shall not impose a vehicular parking ratio, inclusive of accessible and guest parking, that exceeds 0.5 spaces per ~~bedroom~~ unit. **Notwithstanding Section A, if a development includes at least 40 percent moderate-income units for housing developments meeting the criteria of Section 18.80.050.A.4, is located within one-half mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code, and the residents of the development have unobstructed access to the major transit stop from the development then, upon the request of the developer, the city shall not impose a vehicular parking ratio, inclusive of accessible and guest parking, that exceeds 0.5 spaces per bedroom. For purposes of this section, a development shall have unobstructed access to a major transit stop if a resident is able to access the major transit stop without encountering natural or constructed impediments.***
- C. **For purposes of this section, “unobstructed access to the major transit stop” means a resident is able to access the major transit stop without encountering natural or constructed impediments. For purposes of this subparagraph, “natural or constructed impediments” includes, but is not limited to, freeways, rivers, mountains, and bodies of water, but does not include residential structures, shopping centers, parking lots, or rails used for transit.**
- ~~C.~~ D. *Notwithstanding subsection A of this section, if a development consists solely of rental units, exclusive of a manager’s unit or units, with an affordable housing cost*

to lower income families, as provided in Section 50052.5 of the Health and Safety Code, then, upon the request of the developer, the city shall not impose a vehicular parking ~~ratio, inclusive of accessible and guest parking, that exceeds the following ratios:~~ **standard if the development meets either of the following criteria:**

1. ~~If~~ **The** development is located within one-half mile of a major transit stop, ~~as defined in subdivision (b) of Section 21155 of the Public Resources Code,~~ and there is unobstructed access to the major transit stop from the development., ~~the ratio shall not exceed 0.5 spaces per unit.~~
 2. ~~If~~ **The** development is a for-rent housing development for individuals who are sixty-two **(62)** years of age or older that complies with Sections 51.2 and 51.3 of the Civil Code, ~~the ratio shall not exceed 0.5 spaces per unit.~~ **and** the development ~~shall have~~ **has** either paratransit service or unobstructed access, within a one-half mile, to fixed bus route service that operates at least eight times per day.
- ~~3.~~ **E.** Notwithstanding subsection A and J, ~~if~~ **a** development consists solely of rental units, exclusive of a manager's unit or units, with an affordable housing cost to lower income families, as provided in Section 50052.5 of the Health and Safety Code, and the development is either ~~is~~ a special needs housing development, as defined in Section 51312 of the Health and Safety Code, ~~the ratio shall not exceed 0.3 spaces per unit.~~ or a supportive housing development, as defined in Section 50675.14 of the Health and Safety Code, then, upon the request of the developer, the city shall not impose any minimum vehicular parking requirement. A development that is a special needs housing development ~~The development~~ shall have either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.
- ~~D.~~ **F.** Parking Calculations. If the total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number.
- ~~E.~~ **G.** Allowed Parking Types. For the purpose of this section, a development may provide on-site parking through tandem parking or uncovered parking, but not through on-street parking.
- ~~F.~~ **H.** This section shall apply to a development that meets the requirements of Sections 18.80.050 and 18.80.100, but only at the request of the applicant. An applicant may request parking incentives or concessions beyond those provided in this section, pursuant to Section 18.80.060.
- ~~G.~~ **I.** This section does not preclude the city from reducing or eliminating a parking requirement for development projects of any type in any location.

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

I. K. A request pursuant to this section shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to Section 18.80.060. (Ord. 1792 § 1, 2018; Ord. 1719 § 1, 2010)

Section 18.80.080 Donation of land.

A. *Density Bonus with Land Donation.* When an applicant for a tentative subdivision map, parcel map, or other residential development approval donates land to the city that meets the requirements of this section, the applicant shall be entitled to a fifteen (15) percent increase above the otherwise maximum allowable residential density for the entire development as follows:

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

28	33
29	34
30	35

B. *Requirements for Donated Land. This increase shall be in addition to any increase in density mandated by Section 18.80.050, up to a maximum combined mandated density increase of thirty-five (35) percent if an applicant seeks an increase pursuant to both this section and Section 18.80.050.*

C. Density Calculation. All density calculations resulting in fractional units shall be rounded up to the next whole number.

~~C.~~ **D. Additional Density Bonus.** *Nothing in this section shall be construed to enlarge or diminish the authority of a city to require a developer to donate land as a condition of development. An applicant shall be eligible for the increased density bonus described herein if all the following conditions are met:*

1. *The applicant donates and transfers the land no later than the date of approval of the final subdivision map, parcel map, or residential development application. ~~to the city or to a housing developer approved by the city.~~*
2. *The developable acreage and zoning classification of the land being transferred are sufficient to permit construction of units affordable to very low-income households in the amount not less than ten (10) percent of the number of residential units of the proposed development.*
3. *The transferred land is at least one acre in size or of sufficient size to permit development of at least forty (40) units, has the appropriate general plan designation, is appropriately zoned with appropriate development standards for development at the density described in paragraph (3) of subdivision (c) of Section 65583.2 of the Government Code, and is or will be served by adequate public facilities and infrastructure.*
4. *The transferred land shall have all of the permits and approvals, other than building permits, necessary for the development of the very low-income housing units on the transferred land, not later than the date of approval of the final subdivision map, parcel map, or residential development application, except that the local government may subject the proposed development to subsequent design review to the extent authorized by subdivision (i) of Section 65583.2 of the Government Code, if the design is not reviewed by the local government prior to the time of transfer.*
5. *The transferred land and the affordable units shall be subject to a deed restriction ensuring continued affordability of the units consistent with*

~~paragraphs (1) and (2) of~~ Section 18.80.100, which shall be recorded on the property at the time of transfer.

6. *The land is transferred to the city or to a housing developer approved by the city. The city may require the applicant to identify and transfer the land to the developer.*
7. *The transferred land shall be within the boundary of the proposed development or, if the local agency agrees, within one-quarter mile of the boundary of the proposed development.*
8. *A proposed source of funding for the very low-income units shall be identified no later than the date of approval of the final subdivision map, parcel map, or residential development application. (Ord. 1792 § 1, 2018; Ord. 1719 § 1, 2010)*

Section 18.80.090 Provision of childcare facilities.

- A. *When an applicant proposes to construct a housing development that conforms to the requirements of Section 18.80.050 and includes a childcare facility, ~~as that term is defined in Government Code Section 65915(h)(4)~~, that will be located on the premises of, as part of, or adjacent to, the project, the city shall grant either of the following:*
 1. *An additional density bonus that is an amount of square feet of residential space that is equal to or greater than the amount of square feet in the childcare facility.*
 2. *An additional concession or incentive that contributes significantly to the economic feasibility of the construction of the childcare facility.*
- B. *The city shall require, as a condition of approving the housing development, that the following occur:*
 1. *The childcare facility shall remain in operation for a period of time that is as long or longer than the period of time during which the density bonus units are required to remain affordable pursuant to Section 18.80.100.*
 2. *Of the children who attend the childcare facility, the children of very low-income households, lower income households, or families of moderate income shall equal a percentage that is equal to or greater than the percentage of dwelling units that are required for very low-income households, lower income households, or families of moderate income pursuant to Section 18.80.050.*

- C. *Notwithstanding any requirement of this chapter, the city reserves the right to deny a requested density bonus or concession for a childcare facility if it finds, based upon substantial evidence, that the community has adequate childcare facilities. (Ord. 1792 § 1, 2018; Ord. 1719 § 1, 2010)*

Section 18.80.100 Continued affordability.

- A. *An applicant shall agree to, and the city shall ensure, the continued affordability of all very low and low-income rental units that qualified the applicant for the award of the density bonus for fifty-five (55) years or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program. Rents for the lower income density bonus units shall be set at an affordable rent as defined in Section 50053 of the Health and Safety Code.*
- B. For housing developments meeting the criteria of Section 18.80.050.A.8, rents for all units in the development, including both base density and density bonus units, shall be as follows:**
- 1. The rent for at least 20 percent of the units in the development shall be set at an affordable rent, as defined in Section 50053 of the Health and Safety Code.**
 - 2. The rent for the remaining units in the development shall be set at an amount consistent with the maximum rent levels for a housing development that receives an allocation of state or federal low-income housing tax credits from the California Tax Credit Allocation Committee.**
- C. An applicant shall agree to ensure, and the city shall ensure, that a for-sale unit that qualified the applicant for the award of the density bonus meets either of the following conditions:**
- 1. The unit is initially occupied by a person or family of very low, low, or moderate income, as required, and it is offered at an affordable housing cost, as that cost is defined in Section 50052.5 of the Health and Safety Code and is subject to an equity sharing agreement.**
 - 2. The unit is purchased by a qualified nonprofit housing corporation pursuant to a recorded contract that satisfies all of the requirements specified in paragraph (10) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code and that includes all of the following:**
 - a. A repurchase option that requires a subsequent purchaser of the property that desires to resell or convey the property to offer**

the qualified nonprofit corporation the right to repurchase the property prior to selling or conveying that property to any other purchaser.

- b. An equity sharing agreement.**
- c. Affordability restrictions on the sale and conveyance of the property that ensure that the property will be preserved for lower income housing for at least 45 years for owner-occupied housing units and will be sold or resold only to persons or families of very low, low, or moderate income, as defined in Section 50052.5 of the Health and Safety Code.**

B. D. *An applicant shall agree to, and the city shall ensure that, the initial occupant of all for-sale units that qualified the applicant for the award of the density bonus are persons and families of very low, low, or moderate income, as required, and that the units are offered at an affordable housing cost, as the cost is defined in Section 50052.5 of the Health and Safety Code. The city shall enforce an equity sharing agreement **required pursuant to Section 18.80.100, C.1 or C.2** unless it is in conflict with the requirements of another public funding source or law. The following apply to the equity sharing agreement:*

- 1. Upon resale, the seller of the units shall retain the value of any improvements, the down payment, and the seller's proportionate share of appreciation. **Except as provided in Section 18.80.100.D.4,** the city shall recapture any initial subsidy, as defined in subsection **B-2 D.2,** and its proportionate share of appreciation, as defined in subsection **B-3 D.3,** which amount shall be used within five years for any of the purposes described in subdivision (e) of Section 33334.2 of the Health and Safety Code that promote home ownership.*
- 2. For the purposes of this section, the city's initial subsidy shall be equal to the fair market value of the home at the time of initial sale minus the initial sale price to the moderate-income household, plus the amount of any 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.*
- 3. For the purposes of this section, the city's proportionate share of appreciation shall be equal to the ratio of the city's initial subsidy to the fair market value of the home at the time of initial sale.*
- 4. If the unit is purchased or developed by a qualified nonprofit housing corporation pursuant to Section 18.80.100.C.2 the city may enter into a contract with the qualified nonprofit housing corporation under which the qualified nonprofit housing corporation would recapture**

any initial subsidy and its proportionate share of appreciation if the qualified nonprofit housing corporation is required to use 100 percent of the proceeds to promote homeownership for lower income households as defined by Health and Safety Code Section 50079.5 within the jurisdiction of the city.

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

- 1. The proposed housing development, inclusive of the units replaced pursuant to this paragraph, contains affordable units at the percentages set forth in Section 18.80.050.*
- 2. Each unit in the development, exclusive of a manager's unit or units, is affordable to, and occupied by, either a lower or low-income household.*

~~D~~. F. *For the purpose of this paragraph, "replace" shall mean either of the following:*

- 1. If any dwelling units described in subsection ~~C~~ E, are occupied on the date of application, the proposed housing development shall provide at least the same number of units of equivalent size to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those households in occupancy. If the income category of the household in occupancy is not known, it shall be refutably presumed that lower income renter households occupied these units in the same proportion of lower income renter households to all renter households within the jurisdiction, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database. For unoccupied dwelling units described in subsection ~~C~~ E, in a development with occupied units, the proposed housing development shall provide units of equivalent size to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as the last household in occupancy. If the income category of the last household in occupancy is not known, it shall be refutably presumed that lower income renter households occupied these units in the same proportion of lower income renter households to all renter households within the jurisdiction, as determined by the most recently*

available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database. All replacement calculations resulting in fractional units shall be rounded up to the next whole number. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least fifty-five years. If the proposed development is for-sale units, the units replaced shall be subject to subsection **B C**.

2. *If all dwelling units described in subsection **C E**, have been vacated or demolished within the five-year period preceding the application, the proposed housing development shall provide at least the same number of units of equivalent size as existed at the highpoint of those units in the five-year period preceding the application to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those persons and families in occupancy at that time, if known. If the incomes of the persons and families in occupancy at the highpoint is not known, it shall be refutably presumed that low-income and very low-income renter households occupied these units in the same proportion of low-income and very low-income renter households to all renter households within the jurisdiction, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database. All replacement calculations resulting in fractional units shall be rounded up to the next whole number. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least fifty-five years. If the proposed development is for-sale units, the units replaced shall be subject to subsection **B C**.*

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

1. *Require that the replacement units be made available at affordable rent or affordable housing cost to, and occupied by, low-income persons or families. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least fifty-five years. If the proposed development is for-sale units, the units replaced shall be subject to subsection **B C**.*
2. *Require that the units be replaced in compliance with the jurisdiction's rent or price control ordinance, provided that each unit described in subsection **C E**, is replaced. Unless otherwise required by the jurisdiction's rent or price*

control ordinance, these units shall not be subject to a recorded affordability restriction.

- F. H. For the purposes of this section, “equivalent size” means that the replacement units contain at least the same total number of bedrooms as the units being replaced.*

- G. I. Affordable Housing Agreement. Affordability shall be ensured by requiring that the applicant enter into an affordable housing agreement in accordance with this chapter and in form and substance acceptable to the city, which agreement shall be approved by the city attorney, recoded, and run with the land. (Ord. 1792 § 1, 2018; Ord. 1719 § 1, 2010)*

Section 18.80.010 Purpose of affordable housing incentives.

When an applicant seeks a density bonus for a housing development within the city or donates land that meets the requirements of this chapter, upon request of the applicant, the city shall provide a density bonus and incentives or concessions for the production of housing units and childcare facilities, as prescribed in this chapter. The purpose of this chapter is to increase the housing supply and availability in the city and satisfy the requirements of Government Code Section 65915, et seq., as amended (the "Density Bonus Law"). (Ord. 1792 § 1, 2018; Ord. 1719 § 1, 2010)

Section 18.80.020 Definitions.

For the purpose of this chapter, the following definitions shall apply:

"Affordable housing agreement" means an agreement between the applicant and the city guaranteeing the affordability of rental or ownership units in accordance with the provisions of this chapter.

"Affordable housing costs" means the amount set forth in the Health and Safety Code Sections 50052.5 and 50053, as the same may be amended from time to time.

"Approving body" means the planning commission, city council, or housing authority board approving the housing development of which the density bonus request is a part. Where there is an appeal, the "Approving body" shall mean the city council.

"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 centers.

"Common interest development" means a condominium project as defined by Section 1351(f) of the Civil Code, or a planned development as defined by Section 1351(k) of the Civil Code, as the same may be amended from time to time.

"Concession(s)" or "incentive(s)" means:

1. A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, including, but not limited to, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required that results in identifiable and actual cost reductions, to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in Section 18.80.100.

2. Approval of mixed-use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if the commercial, office, industrial, or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located.
3. Other regulatory incentives or concessions proposed by the developer or the city that result in identifiable and actual cost reductions to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in Section 18.80.100.

“Density bonus” means a density increase over the otherwise maximum allowable gross residential density as of the date of application by the applicant to the city, or if elected by the applicant, a lesser percentage of density increase, including, but not limited to, no increase in density. The amount of density increase to which the applicant is entitled shall vary according to the amount by which the percentage of affordable housing units exceeds the percentage established in Section 18.80.050.

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

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

“Located within one-half mile of a major transit stop” means that any point on a proposed development, for which an applicant seeks a density bonus, other incentives or concessions, waivers or reductions of development standards, or a vehicular parking ratio pursuant to this section, is within one-half mile of any point on the property on which a major transit stop is located, including any parking lot owned by the transit authority or other local agency operating the major transit stop.

“Lower income households” means households defined in Section 50079.5 of the Health and Safety Code, as the same may be amended from time to time.

“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 in paragraph (1) of subdivision (k) of Section 69432.7 of the Education Code. 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” has the same meaning as defines in subdivision (b) of Section 21155 of the Public Resources Code.

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

“Persons and families of moderate income” means persons and families defined in Section 50093 of the Health and Safety Code, as the same may be amended from time to time.

“Qualified nonprofit housing corporation” means a nonprofit housing corporation organized pursuant to Section 501(c)(3) of the Internal Revenue Code that has received a welfare exemption under Section 214.15 of the Revenue and Taxation Code for properties intended to be sold to low-income families who participate in a special no-interest loan program.

“Senior citizen housing development” means a project as defined by Sections 51.3 and 51.12 of the Civil Code, as the same may be amended from time to time.

“Study” does not include reasonable documentation to establish eligibility for the concession or incentive or to demonstrate that the incentive or concession meets the definition of “Concession(s)” or “incentive(s)” set forth herein.

“Total units” or “total dwelling units” means a calculation of the number of units that:

1. Excludes a unit added by a density bonus awarded pursuant to this section or any local law granting a greater density bonus.

2. Includes a unit designated to satisfy an inclusionary zoning requirement of a city, county, or city and county.

“Very low-income households” means households defined in Section 50105 of the Health and Safety Code, as same may be amended from time to time. (Ord. 1792 § 1, 2018; Ord. 1719 § 1, 2010)

Section 18.80.030 Application requirements.

- A. A conditional use permit is required for any project in which agreement with the city is entered pursuant to the Density Bonus Law (Government Code Section 65915 et seq.). The permit shall be obtained prior to the effective date of such agreement.
- B. A development plan submittal in accordance with usual development application requirements is required which shall contain the following:
 1. Location of dwelling units within the project intended for affordable housing.
 2. Total number of rental dwelling units and for-sale dwelling units within the project.
 3. Proposed rent schedules and/or sale prices. (Ord. 1792 § 1, 2018; Ord. 1719 § 1, 2010)

Section 18.80.040 Appeal process.

Any appeal relating to density bonuses, incentives, concessions, or waivers/modifications of development standards shall be handled in a manner established in La Habra Municipal Code Section 18.66.080. (Ord. 1792 § 1, 2018; Ord. 1719 § 1, 2010)

Section 18.80.050 Density bonus requirements, calculations and location.

- A. Density Bonus Development Requirements. Upon written request of an applicant, the approving body for a housing development shall grant one density bonus as specified under subsection B of this section and if requested by the applicant and consistent with the applicable requirements of this chapter, incentives or concessions, pursuant to Section 18.80.060, waivers or reductions of development standards, and parking ratios, as described in Section 18.80.070 when the applicant for a housing development seeks and agrees to construct a housing development, excluding any units permitted by the density bonus awarded pursuant to this chapter, that will contain at least any one of the following:

1. Ten (10) percent of the total units of a housing development for rental or sale to lower income households, as defined in Section 50079.5 of the Health and Safety Code.
2. Five (5) percent of the total units of a housing development for rental or sale to very low-income households, as defined in Section 50105 of the Health and Safety Code.
3. A senior citizen housing development, as defined in Sections 51.3 and 51.12 of the Civil Code, or a mobile home park that limits residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the Civil Code.
4. Ten (10) percent of the total dwelling units of a housing development are sold to persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code, provided that all units in the development are offered to the public for purchase.
5. Ten (10) percent of the total units of a housing development for transitional foster youth, as defined in Section 66025.9 of the Education Code, disabled veterans, as defined in Government Code Section 18541, or homeless persons, as defined in the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. Section 11301 et seq.). The units described in this paragraph shall be subject to a recorded affordability restriction of fifty-five (55) years and shall be provided at the same affordability level as very low income units.
6. Twenty (20) percent of the total units for lower income students in a student housing development that meets the following requirements:
 - a. All units in the student housing development will be used exclusively for undergraduate, graduate, or professional students enrolled full time at an institution of higher education accredited by the Western Association of Schools and Colleges or the Accrediting Commission for Community and Junior Colleges. In order to be eligible under this subclause, the developer shall, as a condition of receiving a certificate of occupancy, provide evidence to the city that the developer has entered into an operating agreement or master lease with one or more institutions of higher education for the institution or institutions to occupy all units of the student housing development with students from the institution or institutions. An operating agreement or master lease entered into pursuant to this subclause is not violated or breached if, in any subsequent year, there are not sufficient students enrolled in an institution of higher education to fill all units in the student housing development.

- b. The applicable 20-percent units will be used for lower income students.
 - c. The rent provided in the applicable units of the development for lower income students shall be calculated at 30 percent of 65 percent of the area median income for a single-room occupancy unit type.
 - d. The development will provide priority for the applicable affordable units for lower income students experiencing homelessness. A homeless service provider, as defined in paragraph (3) of subdivision (e) of Section 103577 of the Health and Safety Code, or institution of higher education that has knowledge of a person's homeless status may verify a person's status as homeless for purposes of this subclause.
7. For purposes of calculating a density bonus granted pursuant to this section, the term "unit" as used in this section means one rental bed and its pro rata share of associated common area facilities. The units described in this subparagraph shall be subject to a recorded affordability restriction of 55 years.
 8. One hundred (100) percent of all units in the development, including total units and density bonus units, but exclusive of a manager's unit or units, are for lower income households, as defined by Section 50079.5 of the Health and Safety Code, except that up to 20 percent of the units in the development, including total units and density bonus units, may be for moderate-income households, as defined in Section 50053 of the Health and Safety Code.
- B. An applicant who requests a density bonus pursuant to this section shall elect whether the bonus shall be awarded on the basis of subsection A.1, A.2, A.3, A.4, A.5, A.6 or A.8.
1. For housing developments meeting the criteria of subsection A.1, the density bonus shall be calculated as follows:

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

21	38.75
22	42.5
23	46.25
24	50

2. For housing developments meeting the criteria of subsection A.2, the density bonus shall be calculated as follows:

Percentage Very Low-Income Units	Percentage Density Bonus
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35
12	38.75
13	42.5
14	46.25
15	50

3. For housing developments meeting the criteria of subsection A.3, the density bonus shall be twenty (20) percent of the number of senior housing units.
4. For housing developments meeting the criteria of subsection A.5, the density bonus shall be twenty (20) percent of the number of the type of units giving rise to a density bonus under that subsection.
5. For housing developments meeting the criteria of subsection A.6, the density bonus shall be thirty-five (35) percent of the student housing units.
6. For housing developments meeting the criteria of subsection A.8, the following shall apply:
- a. Except as otherwise provided in section b, the density bonus shall be eighty (80) percent of the number of units for lower income households.
 - b. If the housing development is located within one-half mile of a major transit stop, the city shall not impose any maximum controls on density.
7. For housing developments meeting the criteria of subsection A.4, the density bonus shall be calculated as follows:

Percentage Moderate-Income Units	Percentage Density Bonus
10	5
11	6
12	7
13	8
14	9
15	10
16	11
17	12
18	13
19	14
20	15
21	16
22	17
23	18
24	19
25	20
26	21
27	22
28	23
29	24
30	25
31	26
32	27
33	28
34	29
35	30
36	31
37	32
38	33
39	34
40	35
41	38.75
42	42.5
43	46.25
44	50

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

- D. Location of Density Bonus Units. The density bonus units shall be permitted in geographic areas of the housing development other than the areas where the units for the lower income households are located.
- E. Design Requirements. Affordable units developed in conjunction with a market rate development shall be of similar design and quality as the market rate units. Exterior and floor plans of affordable units shall be similar to the market rate units; interior finishes need not be the same.
- F. Location Distribution Requirements for Affordable Units. Affordable units shall be dispersed throughout the housing development rather than clustered in a single area or a few areas. Location of affordable units with a housing development shall be approved by the approving body.
- G. Except as provided in Section 18.80.060, the granting of a density bonus shall not require or be interpreted to require the waiver of a local ordinance or provisions of a local ordinance unrelated to development standards.
- H. Nothing prohibits the city from granting a density bonus greater than what is described in this section for a development that meets the requirements of this section or from granting a proportionately lower density bonus than what is required by this section for developments that do not meet the requirements of this section. (Ord. 1792 § 1, 2018; Ord. 1719 § 1, 2010)

Section 18.80.060 Concessions or incentives.

- A. Evidence for Concession and Incentives. An applicant for a density bonus pursuant to Section 18.80.050 may submit to the community development department a proposal for the specific incentives or concessions that the applicant requests pursuant to this chapter and may request a meeting with the director of community and economic development or his/her designee to discuss the proposal. However, the approving body shall grant the concession or incentive requested by the applicant pursuant to subsection B unless the city council makes a written finding, based upon substantial evidence, of any of the following:
 - 1. The concession or incentive does not result in identifiable and actual cost reductions, consistent with the definition of “concession(s)” or “incentive(s)” in Section 18.80.020, to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in Section 18.80.100.
 - 2. The concession or incentive would have a specific adverse impact, as defined in Government Code Section 65589.5(d)(2), as the same may be amended from time to time, upon the public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to

satisfactorily mitigate or avoid the specific, adverse impact without rendering the development unaffordable to low-income and moderate income households.

3. The concession or incentive would be contrary to state or federal law.

B. Number of Incentives or Concessions. The applicant shall receive the following number of incentives or concessions as provided in Table 18.80.060.B.

Table 18.80.060.B

Additional Density Bonus Concessions or Incentives

Household Income of Units	Percentage of Units	Concessions or Incentives
Very Low-Income	5 %	1
	10 %	2
	15 %	3
Lower Income	10 %	1
	17 %	2
	24 %	3
Moderate Income Units in Common Interest Development	10 %	1
	20 %	2
	30 %	3
Lower Income Students in a Student Housing Development	20 %	1

C. Four (4) incentives or concessions for a project meeting the criteria in Section 18.80.050.A.8. If the project is located within one-half mile of a major transit stop, the applicant shall also receive a height increase of up to three additional stories, or 33 feet.

D. Nothing in this chapter shall be interpreted to require the city to grant an incentive or concession that has a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5 of the Government Code, upon health, safety, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Nothing in this chapter shall be interpreted to require the city to grant an incentive or concession that would have an adverse impact on any real property that is listed in the California Register of Historical Resources.

E. The granting of a concession or incentive shall not require or be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, study, or other discretionary approval. For purposes of this section,

“study” does not include reasonable documentation to establish eligibility for the concession or incentive or to demonstrate that the incentive or concession meets the definition set forth in this chapter.

- F. This section does not limit or require the provision of direct financial incentives for the housing development, including the provision of publicly owned land, by the city, or the waiver of fees or dedication requirements.
- G. In no case may the city apply any development standard that will have the effect of physically precluding the construction of a development meeting the criteria of this section at the densities or with the concessions or incentives permitted by this chapter.
- H. Waiver of Development Standards. An applicant may submit to the community development department a proposal for the waiver or reduction of development standards that will have the effect of physically precluding the construction of a development meeting the criteria of this section at the densities or with the concessions or incentives permitted under this chapter. The waiver or reduction of development standards must comply with the following conditions and requirements:
 - 1. Nothing in this section shall be interpreted to require the city to waive or reduce development standards if the waiver or reduction would have a specific, adverse impact, as defined in Government Code Section 65589.5(d)(2), as the same may be amended from time to time, upon health or safety, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact.
 - 2. Nothing in this section shall be interpreted to require the city to waive or reduce development standards that would have an adverse impact on any real property that is listed in the California Register of Historical Resources or to grant any waiver or reduction that would be contrary to state or federal law.
 - 3. A proposal for the waiver or reduction of development standards pursuant to this section shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to this section.
 - 4. A housing development that receives a waiver from any maximum controls on density pursuant to Section 18.80.050.B.6.b shall only be eligible for a waiver or reduction of development standards as provided in Section 18.80.060.C and 18,80.050.B.6.b unless, the city agrees to additional waivers or reductions of development standards.
 - 5. Any discretionary actions for modification or waiver shall be processed in conjunction with the housing development application. However, regardless

of whether the housing development application required a public hearing, such a hearing shall be held before the planning commission if a discretionary action is required. (Ord. 1792 § 1, 2018; Ord. 1719 § 1, 2010)

Section 18.80.070 Parking standards.

- A. Maximum Parking Requirements for Density Bonus Units. Except as provided in subsections B, C and D, upon request of the applicant, the city shall not require a vehicular parking ratio, inclusive of accessible and guest parking to the entire housing development that meets the criteria of Sections 18.80.050 and 18.80.100 that exceeds the following ratios:
1. Zero to one bedroom: One on-site parking space.
 2. Two to three bedrooms: One and one-half on-site parking spaces.
 3. Four and more bedrooms: Two and one-half parking spaces.
- B. Notwithstanding subsection A of this section, if a development includes at least 20 percent low-income units for housing developments meeting the criteria of Section 18.80.050.A.1 or at least 11 percent very low-income units for housing developments meeting the criteria of Section 18.80.050.A.2, is located within one-half mile of a major transit stop, and there is unobstructed access to the major transit stop from the development, then, upon the request of the developer, the city shall not impose a vehicular parking ratio, inclusive of accessible and guest parking, that exceeds 0.5 spaces per unit. Notwithstanding Section A, if a development includes at least 40 percent moderate-income units for housing developments meeting the criteria of Section 18.80.050.A.4, is located within one-half mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code, and the residents of the development have unobstructed access to the major transit stop from the development then, upon the request of the developer, the city shall not impose a vehicular parking ratio, inclusive of accessible and guest parking, that exceeds 0.5 spaces per bedroom.
- C. For purposes of this section, “unobstructed access to the major transit stop” means a resident is able to access the major transit stop without encountering natural or constructed impediments. For purposes of this subparagraph, “natural or constructed impediments” includes, but is not limited to, freeways, rivers, mountains, and bodies of water, but does not include residential structures, shopping centers, parking lots, or rails used for transit.
- D. Notwithstanding subsection A of this section, if a development consists solely of rental units, exclusive of a manager’s unit or units, with an affordable housing cost to lower income families, as provided in Section 50052.5 of the Health and Safety Code, then, upon the request of the developer, the city shall not impose a vehicular parking standard if the development meets either of the following criteria:

1. The development is located within one-half mile of a major transit stop, and there is unobstructed access to the major transit stop from the development.
 2. The development is a for-rent housing development for individuals who are sixty-two (62) years of age or older that complies with Sections 51.2 and 51.3 of the Civil Code, and the development has either paratransit service or unobstructed access, within a one-half mile, to fixed bus route service that operates at least eight times per day.
- E. Notwithstanding subsection A and J, if a development consists solely of rental units, exclusive of a manager's unit or units, with an affordable housing cost to lower income families, as provided in Section 50052.5 of the Health and Safety Code, and the development is either a special needs housing development, as defined in Section 51312 of the Health and Safety Code, or a supportive housing development, as defined in Section 50675.14 of the Health and Safety Code, then, upon the request of the developer, the city shall not impose any minimum vehicular parking requirement. A development that is a special needs housing development shall have either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.
- F. Parking Calculations. If the total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number.
- G. Allowed Parking Types. For the purpose of this section, a development may provide on-site parking through tandem parking or uncovered parking, but not through on-street parking.
- H. This section shall apply to a development that meets the requirements of Sections 18.80.050 and 18.80.100, but only at the request of the applicant. An applicant may request parking incentives or concessions beyond those provided in this section, pursuant to Section 18.80.060.
- I. This section does not preclude the city from reducing or eliminating a parking requirement for development projects of any type in any location.
- J. Notwithstanding subsections B and D, if the city or an independent consultant has conducted an area wide or jurisdiction wide parking study in the last seven years, then the city may impose a higher vehicular parking ratio not to exceed the ratio described in subsection A, based upon substantial evidence found in the parking study, that includes, but is not limited to, an analysis of parking availability, differing levels of transit access, walkability access to transit services, the potential for shared parking, the effect of parking requirements on the cost of market-rate and subsidized developments, and the lower rates of car ownership for low-income and very low-income individuals, including seniors and special needs individuals. The city shall pay the costs of any new study. The city shall make findings, based on a

parking study completed in conformity with this paragraph, supporting the need for the higher parking ratio.

- K. A request pursuant to this section shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to Section 18.80.060. (Ord. 1792 § 1, 2018; Ord. 1719 § 1, 2010)

Section 18.80.080 Donation of land.

- A. Density Bonus with Land Donation. When an applicant for a tentative subdivision map, parcel map, or other residential development approval donates land to the city that meets the requirements of this section, the applicant shall be entitled to a fifteen (15) percent increase above the otherwise maximum allowable residential density for the entire development as follows:

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

- B. Requirements for Donated Land. This increase shall be in addition to any increase in density mandated by Section 18.80.050, up to a maximum combined mandated density increase of thirty-five (35) percent if an applicant seeks an increase pursuant to both this section and Section 18.80.050.
- C. Density Calculation. All density calculations resulting in fractional units shall be rounded up to the next whole number.

D. Additional Density Bonus. Nothing in this section shall be construed to enlarge or diminish the authority of a city to require a developer to donate land as a condition of development. An applicant shall be eligible for the increased density bonus described herein if all the following conditions are met:

1. The applicant donates and transfers the land no later than the date of approval of the final subdivision map, parcel map, or residential development application.
2. The developable acreage and zoning classification of the land being transferred are sufficient to permit construction of units affordable to very low-income households in the amount not less than ten (10) percent of the number of residential units of the proposed development.
3. The transferred land is at least one acre in size or of sufficient size to permit development of at least forty (40) units, has the appropriate general plan designation, is appropriately zoned with appropriate development standards for development at the density described in paragraph (3) of subdivision (c) of Section 65583.2 of the Government Code, and is or will be served by adequate public facilities and infrastructure.
4. The transferred land shall have all of the permits and approvals, other than building permits, necessary for the development of the very low-income housing units on the transferred land, not later than the date of approval of the final subdivision map, parcel map, or residential development application, except that the local government may subject the proposed development to subsequent design review to the extent authorized by subdivision (i) of Section 65583.2 of the Government Code, if the design is not reviewed by the local government prior to the time of transfer.
5. The transferred land and the affordable units shall be subject to a deed restriction ensuring continued affordability of the units consistent with Section 18.80.100, which shall be recorded on the property at the time of transfer.
6. The land is transferred to the city or to a housing developer approved by the city. The city may require the applicant to identify and transfer the land to the developer.
7. The transferred land shall be within the boundary of the proposed development or, if the local agency agrees, within one-quarter mile of the boundary of the proposed development.
8. A proposed source of funding for the very low-income units shall be identified no later than the date of approval of the final subdivision map,

parcel map, or residential development application. (Ord. 1792 § 1, 2018; Ord. 1719 § 1, 2010)

Section 18.80.090 Provision of childcare facilities.

- A. When an applicant proposes to construct a housing development that conforms to the requirements of Section 18.80.050 and includes a childcare facility, that will be located on the premises of, as part of, or adjacent to, the project, the city shall grant either of the following:
 - 1. An additional density bonus that is an amount of square feet of residential space that is equal to or greater than the amount of square feet in the childcare facility.
 - 2. An additional concession or incentive that contributes significantly to the economic feasibility of the construction of the childcare facility.
- B. The city shall require, as a condition of approving the housing development, that the following occur:
 - 1. The childcare facility shall remain in operation for a period of time that is as long or longer than the period of time during which the density bonus units are required to remain affordable pursuant to Section 18.80.100.
 - 2. Of the children who attend the childcare facility, the children of very low-income households, lower income households, or families of moderate income shall equal a percentage that is equal to or greater than the percentage of dwelling units that are required for very low-income households, lower income households, or families of moderate income pursuant to Section 18.80.050.
- C. Notwithstanding any requirement of this chapter, the city reserves the right to deny a requested density bonus or concession for a childcare facility if it finds, based upon substantial evidence, that the community has adequate childcare facilities. (Ord. 1792 § 1, 2018; Ord. 1719 § 1, 2010)

Section 18.80.100 Continued affordability.

- A. An applicant shall agree to, and the city shall ensure, the continued affordability of all very low and low-income rental units that qualified the applicant for the award of the density bonus for fifty-five (55) years or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program. Rents for the lower income density bonus units shall be set at an affordable rent as defined in Section 50053 of the Health and Safety Code.

- B. For housing developments meeting the criteria of Section 18.80.050.A.8, rents for all units in the development, including both base density and density bonus units, shall be as follows:
1. The rent for at least 20 percent of the units in the development shall be set at an affordable rent, as defined in Section 50053 of the Health and Safety Code.
 2. The rent for the remaining units in the development shall be set at an amount consistent with the maximum rent levels for a housing development that receives an allocation of state or federal low-income housing tax credits from the California Tax Credit Allocation Committee.
- C. An applicant shall agree to ensure, and the city shall ensure, that a for-sale unit that qualified the applicant for the award of the density bonus meets either of the following conditions:
1. The unit is initially occupied by a person or family of very low, low, or moderate income, as required, and it is offered at an affordable housing cost, as that cost is defined in Section 50052.5 of the Health and Safety Code and is subject to an equity sharing agreement.
 2. The unit is purchased by a qualified nonprofit housing corporation pursuant to a recorded contract that satisfies all of the requirements specified in paragraph (10) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code and that includes all of the following:
 - a. A repurchase option that requires a subsequent purchaser of the property that desires to resell or convey the property to offer the qualified nonprofit corporation the right to repurchase the property prior to selling or conveying that property to any other purchaser.
 - b. An equity sharing agreement.
 - c. Affordability restrictions on the sale and conveyance of the property that ensure that the property will be preserved for lower income housing for at least 45 years for owner-occupied housing units and will be sold or resold only to persons or families of very low, low, or moderate income, as defined in Section 50052.5 of the Health and Safety Code.
- D. An applicant shall agree to, and the city shall ensure that, the initial occupant of all for-sale units that qualified the applicant for the award of the density bonus are persons and families of very low, low, or moderate income, as required, and that the units are offered at an affordable housing cost, as the cost is defined in Section 50052.5 of the Health and Safety Code. The city shall enforce an equity sharing

agreement required pursuant to Section 18.80.100, C.1 or C.2 unless it is in conflict with the requirements of another public funding source or law. The following apply to the equity sharing agreement:

1. Upon resale, the seller of the units shall retain the value of any improvements, the down payment, and the seller's proportionate share of appreciation. Except as provided in Section 18.80.100.D.4, the city shall recapture any initial subsidy, as defined in subsection D.2, and its proportionate share of appreciation, as defined in subsection D.3, which amount shall be used within five years for any of the purposes described in subdivision (e) of Section 33334.2 of the Health and Safety Code that promote home ownership.
 2. For the purposes of this section, the city's initial subsidy shall be equal to the fair market value of the home at the time of initial sale minus the initial sale price to the moderate-income household, plus the amount of any 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.
 3. For the purposes of this section, the city's proportionate share of appreciation shall be equal to the ratio of the city's initial subsidy to the fair market value of the home at the time of initial sale.
 4. If the unit is purchased or developed by a qualified nonprofit housing corporation pursuant to Section 18.80.100.C.2 the city may enter into a contract with the qualified nonprofit housing corporation under which the qualified nonprofit housing corporation would recapture any initial subsidy and its proportionate share of appreciation if the qualified nonprofit housing corporation is required to use 100 percent of the proceeds to promote homeownership for lower income households as defined by Health and Safety Code Section 50079.5 within the jurisdiction of the city.
- E. An applicant shall be ineligible for a density bonus or any other incentives or concessions under this section if the housing development is proposed on any property that includes a parcel or parcels on which rental dwelling units are or, if the dwelling units have been vacated or demolished in the five-year period preceding the application, have been subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of lower or very low-income; subject to any other form of rent or price control through a public entity's valid exercise of its police power; or occupied by lower or very low-income households, unless the proposed housing development replaces those units, and either of the following applies:

1. The proposed housing development, inclusive of the units replaced pursuant to this paragraph, contains affordable units at the percentages set forth in Section 18.80.050.
 2. Each unit in the development, exclusive of a manager's unit or units, is affordable to, and occupied by, either a lower or low-income household.
- F. For the purpose of this paragraph, "replace" shall mean either of the following:
1. If any dwelling units described in subsection E, are occupied on the date of application, the proposed housing development shall provide at least the same number of units of equivalent size to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those households in occupancy. If the income category of the household in occupancy is not known, it shall be refutably presumed that lower income renter households occupied these units in the same proportion of lower income renter households to all renter households within the jurisdiction, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database. For unoccupied dwelling units described in subsection E, in a development with occupied units, the proposed housing development shall provide units of equivalent size to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as the last household in occupancy. If the income category of the last household in occupancy is not known, it shall be refutably presumed that lower income renter households occupied these units in the same proportion of lower income renter households to all renter households within the jurisdiction, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database. All replacement calculations resulting in fractional units shall be rounded up to the next whole number. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least fifty-five years. If the proposed development is for-sale units, the units replaced shall be subject to subsection C.
 2. If all dwelling units described in subsection E, have been vacated or demolished within the five-year period preceding the application, the proposed housing development shall provide at least the same number of units of equivalent size as existed at the highpoint of those units in the five-year period preceding the application to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those persons and families in occupancy at that time, if known. If the incomes of the persons and families in occupancy at the highpoint is not known, it shall be refutably presumed

that low-income and very low-income renter households occupied these units in the same proportion of low-income and very low-income renter households to all renter households within the jurisdiction, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database. All replacement calculations resulting in fractional units shall be rounded up to the next whole number. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least fifty-five years. If the proposed development is for-sale units, the units replaced shall be subject to subsection C.

- G. Notwithstanding subsection F, for any dwelling unit described in subsection E, that is or was, within the five-year period preceding the application, subject to a form of rent or price control through a local government's valid exercise of its police power and that is or was occupied by persons or families above lower income, the city may do either of the following:
 - 1. Require that the replacement units be made available at affordable rent or affordable housing cost to, and occupied by, low-income persons or families. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least fifty-five years. If the proposed development is for-sale units, the units replaced shall be subject to subsection C.
 - 2. Require that the units be replaced in compliance with the jurisdiction's rent or price control ordinance, provided that each unit described in subsection E, is replaced. Unless otherwise required by the jurisdiction's rent or price control ordinance, these units shall not be subject to a recorded affordability restriction.
- H. For the purposes of this section, "equivalent size" means that the replacement units contain at least the same total number of bedrooms as the units being replaced.
- I. Affordable Housing Agreement. Affordability shall be ensured by requiring that the applicant enter into an affordable housing agreement in accordance with this chapter and in form and substance acceptable to the city, which agreement shall be approved by the city attorney, recorded, and run with the land. (Ord. 1792 § 1, 2018; Ord. 1719 § 1, 2010)

Section 18.80.110 Development bonus, mixed-use projects.

- A. When an applicant for approval of a commercial development has entered into an agreement for partnered housing described in subsection C of this section to contribute affordable housing through a joint project or two separate projects

encompassing affordable housing, the city shall grant to the commercial developer a development bonus as prescribed in subsection B. Housing shall be constructed on the site of the commercial development or on a site that is all of the following:

1. Within the boundaries of the city.
 2. In close proximity to public amenities including schools and employment centers.
 3. Located within one-half mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code.
- B. The development bonus granted to the commercial developer shall mean incentives, mutually agreed upon by the developer and the city, that may include, but are not limited to, any of the following:
1. Up to a twenty-percent increase in maximum allowable intensity in the general plan.
 2. Up to a twenty-percent increase in maximum allowable floor area ratio.
 3. Up to a twenty-percent increase in maximum height requirements.
 4. Up to a twenty-percent reduction in minimum parking requirements.
 5. Use of a limited-use/limited-application elevator for upper floor accessibility.
 6. An exception to a zoning ordinance or other land use regulation.
- C. For the purposes of this section, the agreement for partnered housing shall be between the commercial developer and the housing developer, shall identify how the commercial developer will contribute affordable housing, and shall be approved by the city.
- D. For the purposes of this section, affordable housing may be contributed by the commercial developer in one of the following manners:
1. The commercial developer may directly build the units.
 2. The commercial developer may donate a portion of the site or property elsewhere to the affordable housing developer for use as a site for affordable housing.

3. The commercial developer may make a cash payment to the affordable housing developer that shall be used towards the costs of constructing the affordable housing project.
- E. For the purposes of this section, subparagraph (A) of paragraph (3) of subdivision (c) of Section 65915 of the Government Code shall apply.
 - F. Nothing in this section shall preclude any additional allowances or incentives offered to developers by local governments pursuant to law or regulation.
 - G. If the developer of the affordable units does not commence with construction of those units in accordance with timelines ascribed by the agreement described in subsection C, the city may withhold certificates of occupancy for the commercial development under construction until the developer has completed construction of the affordable units.
 - H. In order to qualify for a development bonus under this section, a commercial developer shall partner with a housing developer that provides at least thirty percent of the total units for low-income households or at least fifteen percent of the total units for very low-income households.
 - I. 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 under Section 65915 of the Government Code.
 - J. A development bonus pursuant to this section shall not include a reduction or waiver of the requirements within an ordinance that requires the payment of a fee by a commercial developer for the promotion or provision of affordable housing.
 - K. The city shall submit to the Department of Housing and Community Development, as part of the annual report required by Section 65400 of the Government Code, information describing a commercial development bonus approved pursuant to this section, including the terms of the agreements between the commercial developer and the affordable housing developer, and the developers and the local jurisdiction, and the number of affordable units constructed as part of the agreements.
 - L. For purposes of this section, “partner” shall mean formation of a partnership, limited liability company, corporation, or other entity recognized by the state in which the commercial development applicant and the affordable housing developer are each partners, members, shareholders or other participants, or a contract or agreement between a commercial development applicant and affordable housing developer for the development of both the commercial and the affordable housing properties.

M. This section (18.80.110) shall remain in effect only until January 1, 2022, and as of that date is repealed. (Ord. 1792 § 1, 2018)