

Exhibit L
Chapter 17.92 - Density Bonus

17.92.010 - Purpose

As required by Government Code Section 65915, this chapter offers Density Bonuses and incentives or concessions for the development of housing that is affordable to the types of households and qualifying residents identified in Section 17.92.030 (Eligibility for Bonus, Incentives, or Concessions). This chapter is intended to implement the requirements of Government Code Section 65915 et seq., and the Housing Element of the General Plan. As used in this chapter and when otherwise required by Government Code Section 65915 et seq., "housing development" means a development project for five (5) or more residential units, including a mixed-use development, that meets the requirements of Government Code Section 65915(i).

17.92.020 - Definitions

The following definitions shall apply to this Chapter:

- A. **Affordable Ownership Cost.** Affordable ownership cost means a reasonable down payment and an average monthly housing cost during the first calendar year of occupancy, mortgage insurance, property taxes and property assessments, homeowner's insurance, homeowner's association dues, if any, and all other dues and fees assessed as a condition of property ownership, which does not exceed the income limits established under Section 50052.5(b) of the California Health and safety Code.
- B. **Affordable Rent.** Affordable rent means monthly rent, including a reasonable allowance for garbage collection, water, electricity, gas, and other heating, cooking, and refrigeration fuels, and all mandatory fees charged for use of the property, which does not exceed the income limits established under Section 50053(b) of the California Health and Safety Code.
- C. **Area Median Income.** Area median income is the annual median income for San Benito County, adjusted for household size, as published periodically in Title 25, Section 6932, California Code of Regulations, or its successor provision, or as established by the city of Hollister in the event that such median income figures are no longer published periodically in the California Code of Regulations.
- D. **Applicant.** An applicant is any person, firm, partnership, non-profit, association, joint venture, corporation, or any entity or combination of entities who seeks approval of a permit from the City for a development that includes residential dwelling units on a parcel within the City which is owned or not owned by the Applicant.

- E. **Base Density or Base Units.** Base density or base units is the maximum number of dwelling units per gross acre permitted on the property, as established by the general plan designation of the parcel. When the calculation of density results in a fractional number of units, the number of permitted units shall be rounded up to the nearest whole number. When the general plan designation of the property allows for mixed-use development, the base density shall be calculated the same as those properties which are designated only for residential uses.
- F. **Child Care Facility.** A facility approved and licensed by the State, other than a family day care home, that provides non-medical care on less than a 24-hour basis, including infant centers, preschools, extended day care facilities, and school age children, operated and maintained by the operator or owner. Day care center does not include residential care facilities, residential service facilities, interim housing, or convalescent hospitals/nursing homes.
- G. **Common Interest Developments.** A community apartment project, a condominium project, a planned development or a stock cooperative.
- H. **Concessions.** A reduction in site development standards or a modification of zoning code or architectural design requirements, approved of mixed-use zoning or other regulatory incentives or concessions which actually result in cost reductions.
- I. **Density Bonus.** An increase in the number of dwelling units over the otherwise maximum allowable residential density as established in the Land Use Element of the Hollister General Plan and the Zoning Ordinance in accordance with State law and this Chapter.
- J. **Density Bonus Units.** The residential dwelling units approved pursuant to this Chapter, which exceed the otherwise allowable maximum allowable residential density for the development site.
- K. **Development Standard.** A site or construction condition, other than density or lot size, including but not limited to: a height limitation, minimum lot size, lot dimensions, setback requirements, lot coverage (except where Floor Area Ratio is used instead of lot coverage), or open space requirement that applies to a residential development pursuant to any ordinance, General Plan Element, Specific Plan, or other City condition, law, policy, resolution, or regulation.
- L. **First Approval.** The first of the following approvals to occur with respect to a residential development: Specific Plan, Development Agreement, Planned Unit Development Permit, Tentative Map, Minor Subdivision, Conditional Use Permit, Site Plan Review, or Building Permit.
- M. **Housing Development.** A development project consisting of 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 the City and consistent 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, where the result of the rehabilitation would be a net increase of the available residential units.

- N. **Homeless Persons.** Homeless persons shall have the same meaning as defined in the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11301 et seq.).
- O. **Incentives.** Regulatory incentives as defined in Section 17.30.100, Incentives and Concessions.
- P. **Lower-Income Households.** Persons and families whose income does not exceed the qualifying limits for lower income families as established and amended from time to time pursuant to Section 8 of the United States Housing Act of 1937. The limits shall be published by the department in the California Code of Regulations as soon as possible after adoption by the Secretary of Housing and Urban Development. In the event the federal standards are discontinued, the department shall, by regulation, establish income limits for lower income households for all geographic areas of the state at 80 percent of area median income, adjusted for family size and revised annually. Lower-income households includes very low-income households, as defined in Section 50105, and extremely low-income households, as defined in Section 50106.
- Q. **Lower Income Student.** 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.
- R. **Major Transit Stop.** A major transit stop shall have the same meaning as defined in subdivision (b) of Section 21155 of the Public Resources Code.
- S. **Maximum Allowable Residential Density.** The maximum number of dwelling units permitted for a residential project by the City's Zoning Ordinance and by the Land Use Element of the General Plan on the date that the application for the residential project is deemed complete, excluding any units allowed by a Density Bonus. If the maximum density allowed by the Zoning Ordinance is inconsistent with the density allowed by the Land Use Element of the General Plan, the General Plan density shall prevail.

- T. **Mixed-Use Development.** A development that includes residential as well as commercial, office or industrial uses.
- U. **Moderate-Income Households.** Households whose income does not exceed the moderate income limits applicable to San Benito County as published annually pursuant to Title 25 of the California Code of Regulations, Section 6932 (or its successor provision) by the California Department of Housing and Community Development, adjusted for household size.
- V. **Non-Restricted Units.** All dwelling units within a residential development except the target units.
- W. **Residential Development.** A development project of five or more dwelling units and includes a subdivision or common interest development.
- X. **Shared Housing Building.** A residential or mixed-use structure, with five or more shared housing units and one or more common kitchens and dining areas designed for permanent residence of more than 30 days by its tenants. The kitchens and dining areas within the shared housing building shall be able to adequately accommodate all residents. A shared housing building may include other dwelling units that are not shared housing units, provided that those dwelling units do not occupy more than 25 percent of the floor area of the shared housing building. A shared housing building may include 100 percent shared housing units. A shared housing building may include incidental commercial uses, provided that those commercial uses are otherwise allowable and are located only on the ground floor or the level of the shared housing building closest to the street or sidewalk of the shared housing building.
- Y. **Shared Housing Unit.** One or more habitable rooms, not within another dwelling unit, that includes a bathroom, sink, refrigerator, and microwave, is used for permanent residence, that meets the “minimum room area” specified in Section R304 of the California Residential Code (Part 2.5 of Title 24 of the California Code of Regulations), and complies with the definition of “guestroom” in Section R202 of the California Residential Code.
- Z. **Senior Housing Development.** A residential development, mobile home park, shared housing, or residential care facility for the elderly (Health and Safety Code Section 1569.2) is constructed or substantially renovated for senior citizens aged fifty-five (55) years or older.
- AA. **Specific Adverse Impact.** A significant, quantifiable, direct and unavoidable impact based on objective and identified written public health or safety standards, policies or conditions as they existed on the date that the application for the housing development was deemed complete as defined by Section 65589.5 of the Government Code.

- BB. **State Density Bonus Law.** State of California Government Code Section 65915 as may be amended.
- CC. **Student Housing Development.** A housing development which is 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. A minimum of twenty (20) percent of the units (rental beds) must be reserved for lower income students to qualify and the rent for the affordable units must be calculated at 30 percent of 65 percent of the area medium income for single-room occupancy unit type in accordance with Government Code Section 65915(b)(1)(F)(i).
- DD. **Target Unit.** A dwelling unit within a housing development that is reserved for sale or rent to, and is made available at an affordable rent or affordable ownership cost to: very-low, lower, or moderate-income households, or is a dwelling unit in a senior housing development, and which qualifies the residential development for a Density Bonus and other incentives or concessions pursuant to Section 17.92.030(A) of this Article.
- EE. **Very-Low Income Households.** Households whose income does not exceed the very-low income limits applicable to San Benito County as published annually pursuant to Title 25 of the California Code of Regulations, Section 6932 (or its successor provision) by the California Department of Housing and Community Development, adjusted for household size.

17.92.030 - Eligibility for Bonus, Incentives, or Concessions

To be eligible for a Density Bonus and other incentives or concessions as provided by this chapter, a proposed housing development shall comply with the following requirements and shall satisfy all other applicable provisions of Hollister Municipal Code, except as provided by Section 17.92.060 (Allowed Incentives or Concessions).

- A. **Resident Requirements.** A housing development proposed to qualify for a Density Bonus shall be designed and constructed so that it includes at least one of the following:
1. Ten percent (10%) of the total number of units in a housing development, including shared housing, for rental or sale for lower-income households, as defined in Health and Safety Code Section 50079.5;
 2. Five percent (5%) of the total number of units in a housing development, including shared housing, for rental or sale for very low-income households, as defined in Health and Safety Code Section 50105;

3. The project is a senior citizen housing development as defined in Civil Code Sections 51.3 and 51.12, or is a mobile home park that limits residency based on age requirements for housing older persons in compliance with Civil Code Sections 798.76 and 799.5;
 4. Ten percent (10%) of the total number of units in a housing development, in a common interest development as defined in Civil Code Section 4100, are sold to persons and families of moderate income, as defined in Health and Safety Code Section 50093; provided, that all units in the development are offered to the public for purchase;
 5. Ten percent (10%) of the total number of units in a housing development of housing for transitional foster youth, as defined in Section 66025.9 of the Education Code, disabled veterans, as defined in Section 18541 of the Government Code, or homeless persons, as defined in the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. Section 11301 et seq.), where such units are subject to a recorded affordability restriction of fifty-five (55) years and provided at the same affordability level as very low income units;
 6. Twenty percent (20%) of the total number of units in a housing development, for lower income students and made available at an affordable rent in an exclusively student housing development, as specified in Government Code Section 65915(b)(1)(F), where such units are subject to a recorded affordability restriction of fifty-five (55) years and priority is given to students experiencing homelessness; or
 7. One hundred percent (100%) 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 Health and Safety Code Section 50079.5, except that up to twenty percent (20%) of the units in the development, including total units and Density Bonus Units, may be for moderate-income households, as defined in Health and Safety Code Section 50053.
- B. **Applicant Selection of Basis for Bonus.** For purposes of calculating the amount of the Density Bonus in compliance with Section 17.92.040 (Allowed Density Bonuses), the applicant who requests a Density Bonus shall elect whether the bonus shall be awarded on the basis of subsection (A)(1), (2), (3), (4), (5), (6), (7), or (8) of this section. An application submitted pursuant to Section 17.92.100, shall include the number of bonus units requested pursuant to this section.
- C. **Bonus Units not Included in Calculation.** Except as provided in subsection (A)(7), a Density Bonus granted in compliance with Section 17.92.040 (Allowed Density Bonuses) shall not be included when determining the number of housing units that is equal to the percentages required by subsection A of this section.

- D. **Minimum Project Size to Qualify for Density Bonus.** The Density Bonus provided by this chapter shall be available only to a housing development of five (5) or more dwelling units.
- E. **Condominium Conversion Projects.** A condominium conversion project for which a Density Bonus is requested shall comply with the eligibility and other requirements in Government Code Section 65915.5.
- F. **Existing Units; Replacement.** When a proposed project affects existing units and/or any other circumstances identified in Government Code section 65915(c)(3) apply, a proposed development must replace the affected units and comply with all other requirements of Government Code section 65915(c)(3), as specified, to be eligible for a Density Bonus or other incentives or concessions.

17.92.040 - Allowed Density Bonuses

The amount of Density Bonus allowed in a housing development shall be determined in compliance with this section.

- A. **Density Bonus.** A housing development that complies with the eligibility requirements in Section 17.92.030(A)(1), (2), (3), (4), (5), (6), or (7) shall be entitled to Density Bonuses as follows, unless a lesser percentage is proposed by the applicant:
 - 1. **Bonus for Units for Lower-Income Households.** A housing development that is eligible for a bonus in compliance with the criteria in Section 17.92.030(A)(1) (ten percent (10%) of units for lower-income households) shall be entitled to a Density Bonus calculated as follows:

Table 17.92-1: Density Bonus for Low-Income Units

Percentage of 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

Percentage of Low-Income Units	Percentage Density Bonus
20	35
21	38.75
22	42.5
23	46.25
24	50

2. **Bonus for Units for Very Low-Income Households.** A housing development that is eligible for a bonus in compliance with the criteria in Section 17.92.030(A)(2) (five percent (5%) of units for very low-income households) shall be entitled to a Density Bonus calculated as follows:

Table 17.92-2: Density Bonus for Very-Low Income Units

Percentage of 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. **Bonus for Senior Citizen Development.** A housing development that is eligible for a bonus in compliance with the criteria in Section 17.92.030(A)(3) (senior citizen development or mobile home park) shall be entitled to a Density Bonus of twenty percent (20%) of the number of senior housing units.
4. **Bonus for Moderate-Income Units in Common Interest Development.** A housing development that is eligible for a bonus in compliance with the criteria in Section 17.92.030(A)(4) (ten percent (10%) of units in a common interest development for persons and families of moderate income) shall be entitled to a Density Bonus calculated as follows:

Table 17.92-3: Density Bonus for for-Sale Moderate-Income Units

Percentage of 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

5. **Bonus for Transitional Foster Youth, Disabled Veterans, or Homeless Persons Development.** A housing development that is eligible for a bonus in compliance with the criteria in Section 17.92.030(A)(5) (transitional foster youth, disabled veterans, or homeless persons) shall be entitled to a

Density Bonus of twenty percent (20%) of the units of the type giving rise to a Density Bonus.

6. **Bonus for Lower Income Students in a Student Housing Development.** A housing development that is eligible for a bonus in compliance with the criteria in Section 17.92.030(A)(6) (lower income students in student housing) shall be entitled to a Density Bonus of thirty-five percent (35%) of the student housing units.
7. **Bonus for Units for Lower-Income and Moderate-Income Households.** A housing development that is eligible for a bonus in compliance with the criteria in Section 17.92.030(A)(7) (lower-income and moderate-income households) shall be entitled to a Density Bonus of eighty percent (80%) of the number of units of lower income households.
 - a. If the housing development described in this subsection (A)(7) is located within one-half mile of a major transit stop, there shall be no maximum controls on density. "Major transit stop" means a site containing an existing rail or bus rapid transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods, and also includes major transit stops that are included in the applicable regional transportation plan.
 - b. A housing development that receives a waiver from maximum controls on density shall only be eligible for a waiver or reduction of a height increase of up to three additional stories, or 33 feet, as expressly provided in Section 17.92.060(C)(5)(a).
8. **Density Bonus for Land Donation.** When an applicant for a tentative map, parcel map, or other residential development approval donates land to the City in compliance with this subsection, the applicant shall be entitled to a Density Bonus for the entire development, as follows; provided, that nothing in this subsection shall be construed to affect the authority of the City to require a developer to donate land as a condition of development.
 - a. **Basic Bonus.** The applicant shall be entitled to a fifteen percent (15%) increase above the otherwise maximum allowable residential density under the applicable Land Use Plan designation and zoning district for the entire development, and an additional increase as follows:

Table 17.92-4: Density Bonus for Land Donation

Percentage of Very Low-Income Units Proposed	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. **Increased Bonus.** The increase identified in the table above shall be in addition to any increase in density required by subsections (A)(1) through (7) of this section up to a maximum combined mandated density increase of thirty-five percent (35%) if an applicant seeks both the increase required in compliance with this subsection (A)(8), as well as the bonuses provided by subsections (A)(1) through (7) of this section.

- c. **Eligibility for Increased Bonus.** An applicant shall be eligible for the increased Density Bonus provided by this subsection if all the following conditions are met:
 - i. The applicant donates and transfers the land no later than the date of approval of the final map, parcel map, or applicable development review application for the residential development.

 - ii. The developable acreage and zoning classification of the land being transferred are sufficient to permit construction of units affordable to very low-income households in an amount not

less than ten percent (10%) of the number of residential units of the proposed development.

- iii. 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 land use designation; is appropriately zoned for development as affordable housing; and is or will be served by adequate public facilities and infrastructure. The land shall have appropriate zoning and development standards to make the development of the affordable units feasible.
- iv. No later than the date of approval of the final map, parcel map, or other applicable development review application for the residential development, 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, except that the City may subject the proposed development to subsequent design review to the extent authorized by Government Code Section 65583.2(i) if the design is not reviewed by the City before the time of transfer.
- v. The transferred land and the affordable units shall be subject to a deed restriction ensuring continued affordability of the units consistent with Section 17.92.130 and 17.92.140 (Continued Affordability and Availability), which shall be recorded on the property at the time of dedication.
- vi. 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 approved housing developer.
- vii. The transferred land shall be within the boundary of the proposed development or, if the City agrees, within one-quarter (1/4) mile of the boundary of the proposed development, provided that the City Council finds, based on substantial evidence, that off-site donation will provide as much or more affordable housing at the same or even lower income levels, and of the same or superior quality of design and construction, and will otherwise provide greater public benefit, than donating land on site.

- viii. No later than the date of approval of the final map, parcel map or other applicable development review application for the residential development, a proposed source of funding for the very low-income units shall be identified.
- B. **Greater or Lesser Bonuses.** The City may choose to grant a Density Bonus greater than provided by this section for a development that meets the requirements of this section, or grant a proportionately lower Density Bonus than required by this section for a development that does not fully comply with the requirements of this section. The applicant may elect a lesser percentage of density increase than what is provided in this section.
- C. **Density Bonus Calculations.** The calculation of a Density Bonus in compliance with this section that results in fractional units shall be rounded up to the next whole number, as required by State law. For the purpose of calculating a Density Bonus, the residential units do not have to be based upon individual subdivision maps or parcels.
- D. **Requirements for Amendments or Discretionary Approval.** The granting of a Density Bonus shall not be interpreted, in and of itself, to require a General Plan amendment, Zoning Map amendment, or other discretionary approval.
- E. **Location of Bonus Units.** The developer may locate Density Bonus Units in the housing project in other than the areas where the units for the lower-income households are located.

17.92.050 - Density Bonus for Affordable Housing on the Site of a Commercial Development

- A. An applicant seeking City approval of a commercial development that has entered into an agreement for partnered housing where at least 30 percent of the total units are dedicated to low-income households or at least 15 percent of the total units for very-low income are eligible for a development bonus, 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 20-percent increase in maximum allowable intensity in the General Plan.
 - 2. Up to a 20-percent increase in maximum allowable floor area ratio.
 - 3. Up to a 20-percent increase in maximum height requirements.
 - 4. Up to a 20-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.
- B. The agreement between the applicant and the housing developer shall identify how the commercial developer will contribute affordable housing and the timeline for construction. The agreement between the applicant and the housing developer shall be approved by the City.
- C. Nothing in this Section shall preclude an affordable housing developer from seeking a Density Bonus under Section 17.92.040 (Allowed Density Bonuses). If the developer of the affordable units does not commence with construction of the affordable units as outlined in the agreement between the applicant and the housing developer, the City may withhold certificates of occupancy for the commercial development under construction until the developer has completed construction of the affordable units.

17.92.060 - Allowed Incentives or Concessions

A. Applicant Request and City Approval.

1. An applicant for a Density Bonus in compliance with this chapter may submit to the City a proposal for the specific incentives or concessions listed in subsection D of this section (Type of incentives) that the applicant requests in compliance with this section. The applicant may file a request either before filing a final application for City approval of a proposed project or concurrently with a final application for project approval. A preliminary application submitted pursuant to Section 17.92.100, or a final application if a preliminary application is not submitted, shall include any incentives, concessions, waivers, or parking reductions requested pursuant to this section.
2. Incentive or concession requests that comply with this section shall be granted unless either of the following findings is made, in writing, and based upon substantial evidence:
 - a. The incentive or concession is not required to provide for affordable housing costs, as defined in Health and Safety Code Section 50052.5, or for rents for the targeted units to be set as specified in Section 9.26.070(B) (Unit cost requirements); or
 - b. The incentive or concession would have a specific adverse impact, as defined in Government Code Section 65589.5(d)(2), upon public health and safety or the physical environment, or on any real property listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the

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

B. Waiver of Standards Preventing the Use of Bonuses, Incentives, or Concessions.

1. As required by Government Code Section 65915(e), the City will not apply a development standard that will have the effect of physically precluding the construction of a development meeting the criteria of Section 17.92.030(A) (Resident Requirements), at the densities or with the concessions or incentives allowed by this chapter.
2. An applicant may submit to the City a proposal for the waiver or reduction of development and zoning standards that will have the effect of physically precluding the construction of a development meeting the criteria of Section 17.92.030(A) (Resident Requirements), at the densities or with the concessions or incentives allowed by this chapter on a specific site, including minimum parcel size, side setbacks, and placement of public works improvements. The proposal must identify the specific waiver(s), concession(s), or incentive(s) sought and demonstrate that the request satisfies the requirements of Government Code Section 65915(e).
3. Nothing in this subsection shall be interpreted to require the City to waive or reduce development standards that would have an adverse impact upon health, safety, or the physical environment, for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact, or upon 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..

C. Number of Incentives. The applicant shall receive the following number of incentives or concessions:

1. **One Incentive or Concession.** One incentive or concession for a project that includes at least ten percent (10%) of the total units for lower-income households, at least five percent (5%) for very low-income households, at least ten percent (10%) for persons and families of moderate income in a common interest development, or developments that include at least twenty percent (20%) of the total units for lower income students in a student housing development.
2. **Two (2) Incentives or Concessions.** Two (2) incentives or concessions for a project that includes at least seventeen percent (17%) of the total units for lower-income households, at least ten percent (10%) for very low-income households, or at least twenty percent (20%) for persons and families of moderate income in a common interest development.

3. **Three (3) Incentives or Concessions.** Three (3) incentives or concessions for a project that includes at least twenty-four percent (24%) of the total units for lower-income households, at least fifteen percent (15%) for very low-income households, or at least thirty percent (30%) for persons and families of moderate income in a common interest development.

4. **Four (4) Incentives or Concessions.** Four (4) incentives or concessions for a project that includes at least sixteen percent (16%) of the total units for very low-income households or at least forty-five percent (45%) of the total units for moderate income households in a for-sale development.

5. **Five (5) Incentives or Concessions.** Five (5) incentives or concessions for projects where one hundred percent (100%) 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 Health and Safety Code Section 50079.5, except that up to twenty percent (20%) of all units in the development, including total units and Density Bonus Units, but exclusive of a manager's unit or units, may be for moderate-income households, as defined in Health and Safety Code Section 50053.
 - a. If the housing development described in this subsection (C)(4) is located within one-half mile of a major transit stop, the applicant shall also receive a height increase of up to three (3) additional stories, or 33 feet. "Major transit stop" means a site containing an existing rail or bus rapid transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods, and also includes major transit stops that are included in the applicable regional transportation plan.

Table 17.92-5 Incentives or Concessions Summary

Target Group	Target Units				
	Very Low-Income	5%	10%	15%	16%
Low-Income	10%	17%	24%	--	100% ⁽¹⁾⁽²⁾
Student Housing Low Income	20%	--	--	--	--
Moderate Income	10%	20%	30%	45%	--
<i>Maximum Incentive/Concession</i>	1	2	3	4	5

(1) Projects in this category may include moderate-income units that comprise up to 20% of the development.

(2) Projects in this category, within one-half (1/2) mile of a major transit stop, shall also receive a height increase of up to three (3) additional stories, or 33 feet.

D. **Type of Incentives.** For the purposes of this chapter, concession or incentive means any of the following:

1. A reduction in the site development standards of the Hollister Municipal Code (e.g., site coverage limitations, setbacks, reduced parcel sizes, and/or parking requirements (see also Section 17.92.070, Parking Requirements in Density Bonus Projects), or a modification of architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission in compliance with Health and Safety Code Section 18901 et seq., that would otherwise be required, that results in identifiable, financially sufficient, and actual cost reductions to provide for affordable housing costs and/or rents;
2. Approval of mixed-use land uses not otherwise allowed by the City's development and zoning ordinances, in conjunction with the housing development, if nonresidential land uses will reduce the cost of the housing development, and the nonresidential land uses are compatible with the housing project and the existing or planned development in the area where the project will be located;
3. Other regulatory incentives proposed by the applicant or the City that will result in identifiable, financially sufficient, and actual cost reductions to provide for affordable housing costs and/or rents; and/or
4. In its sole and absolute discretion, a direct financial contribution granted by the Council, including writing down land costs, subsidizing the cost of construction, or participating in the cost of infrastructure.

E. **Effect of Incentive or Concession.** The granting of a concession or incentive shall not be interpreted, in and of itself, to require a General Plan amendment, Zoning Map amendment, or other discretionary approval.

F. **Exceptions.** Notwithstanding the provisions of this Chapter, nothing in this section shall be interpreted to require the City to:

1. Grant a Density Bonus, incentive, or concession, or waive or reduce development standards, if the bonus, incentive, concession, waiver, or reduction would have a specific adverse impact, as defined in Government Code Section 65589.5(d)(2), upon health, safety, or the physical

environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact.

2. Grant a Density Bonus, incentive, or concession, or waive or reduce development standards, if the bonus, incentive, concession, waiver, or reduction would have an adverse impact on any real property that is listed in the California Register of Historical Resources.
3. Grant a Density Bonus, incentive, or concession, or waive or reduce development standards, if the bonus, incentive, concession, waiver, or reduction would be contrary to state or federal law.

17.92.070 - Parking Requirements in Density Bonus Projects.

A. **Applicability.** This section applies to a development that meets the requirements of Section 17.92.030 (Eligibility for Bonus, Incentives, or Concessions) but only at the request of the applicant. An applicant may request additional parking incentives or concessions beyond those provided in this section in compliance with Section 17.92.060 (Allowed Incentives or Concessions).

B. **Number of Parking Spaces Required.**

1. At the request of the applicant, the City shall require the following vehicular parking ratios for a project that complies with the requirements of Section 17.92.030 (Eligibility for Bonus, Incentives, or Concessions), inclusive of handicapped and guest parking:
 - a. Zero (0) to one bedroom: One on-site parking space.
 - b. Two (2) to three (3) bedrooms: One and one-half (1-1/2) on-site parking spaces.
 - c. Four (4) and more bedrooms: Two and one-half (2-1/2) on-site parking spaces.
2. 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.

Table 17.92–6: Parking Requirements For a Density Bonus Project

Unit Type	Required Off-Street Parking <u>Per Unit</u>
Studio	1 Parking Space
1 Bedroom	1 Parking Space
2 Bedrooms	1.5 Parking Spaces

Unit Type	Required Off-Street Parking Per Unit
3 Bedrooms	1.5 Parking Spaces
4+ Bedrooms	2.5 Parking Spaces

C. Adjustments to Parking Requirements.

1. If the development includes at least twenty percent (20%) low-income units or at least eleven percent (11%) very low-income units, and the development is located within one-half mile of a major transit stop, as defined in Section 21155 of the Public Resources Code, and there is unobstructed access to the major transit stop from the development, the parking ratio, inclusive of handicapped and guest parking, shall not exceed one-half (1/2) spaces per unit.
2. At the request of the applicant, if the 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, no vehicular parking standards will apply:
 - a. If the development is located within one-half (1/2) mile of a major transit stop, as defined in Section 21155 of the Public Resources Code, and there is unobstructed access to the major transit stop from the development.
 - b. 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 and the development has either paratransit service or unobstructed access, within one-half (1/2) mile, to fixed bus route service that operates at least eight (8) times per day.
 - c. If the development is either a special needs housing development, as defined in Health and Safety Code Section 51312, or a supportive housing development, as defined in Health and Safety Code Section 50675.14, and the development has either paratransit service or unobstructed access, within one-half (1/2) mile, to fixed bus route service that operates at least eight (8) times per day.

D. Location of Parking. For purposes of this section, a development may provide on-site parking through uncovered parking, but not through on-street parking.

E. Religious Institution Affiliated Housing Development Projects. The requirements of Government Code section 65913.6 shall apply to any “religious institution affiliated housing development project,” as defined, that proposes to

eliminate parking as part of the housing development project. Except as specifically required by Government Code section 65913.6, all other applicable provisions of this Section and this Chapter shall apply to the proposed housing development project.

17.92.080 - Bonus and Incentives for Developments with Child Care Facilities.

A. **Housing Developments.** A housing development that complies with the resident and project size requirements of Sections 17.92.030(A) and (D), and also includes as part of that development a child care facility other than a large or small family day care home, that will be located on the site of, as part of, or adjacent to the development, shall be subject to the following additional bonus, incentives, and requirements.

1. **Additional Bonus and Incentives.** The City shall grant a housing development that includes a child care facility in compliance with this section either of the following:

- a. An additional Density Bonus that is an amount of floor area in square feet of residential space that is equal to or greater than the floor area of the child care facility; or
- b. An additional incentive that contributes significantly to the economic feasibility of the construction of the child care facility.

2. **Requirements to Qualify for Additional Bonus and Incentives.**

- a. The City shall require, as a condition of approving the housing development, that:
 - i. The child care facility shall remain in operation for a period of time that is as long as or longer than the period of time during which the Density Bonus Units are required to remain affordable in compliance with Section 17.92.120 (Continued Affordability and Availability); and
 - ii. Of the children who attend the child care 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 in compliance with Section 17.92.030(A) (Resident Requirements).
- b. The City shall not be required to provide a Density Bonus for a child care facility in compliance with this section if it finds, based upon

substantial evidence, that the community has adequate child care facilities.

B. Commercial and Industrial Developments. A developer of a commercial or industrial development project, containing at least fifty thousand (50,000) square feet of floor area, may be granted a Density Bonus when that developer agrees to set aside at least two thousand (2,000) square feet of interior floor area and three thousand (3,000) outdoor square footage to be used for a child care facility, other than a large or small family day care home, in compliance with Government Code Section 65917.5 (Commercial Density Bonus).

1. **Allowable Density Bonuses.** The allowable Density Bonus may be one of the following:

- a. A maximum of five (5) square feet of floor area for each one square foot of floor area contained in the child care facility located in an existing child care facility; or
- b. A maximum of ten (10) square feet of floor area for each one square foot of floor area contained in the child care facility located in a new child care facility.

2. **Qualifications.** Requirements to qualify for the additional Density Bonus shall include all of the following.

- a. For purposes of calculating the allowable Density Bonus under this subsection, both the total area contained within the exterior walls of the child care facility and all outdoor areas devoted to the use of the facility in compliance with applicable State child care licensing requirements shall be considered.
- b. The child care facility shall be of a sufficient size to comply with all applicable State licensing requirements in order to accommodate at least forty (40) children.
- c. This facility may be located either on the project site or may be located off site as agreed upon by the developer and the City.
- d. If the child care facility is not located on the site of the development project, the City shall determine whether the location of the child care facility is appropriate and whether it complies with the purpose and intent of this section.
- e. The granting of a Density Bonus shall not preclude the City from imposing necessary conditions on the development project or on the

additional square footage in compliance with Government Code Section 65917.5 (Commercial Density Bonus).

17.92.090 - Location and Type of Designated Units

- A. Target units shall be constructed concurrently with non-restricted dwelling units or pursuant to a schedule included in the Density Bonus Housing Agreement approved pursuant to Section 17.92.120, Density Bonus Housing Agreement.
- B. Single-family detached target units shall be dispersed throughout the residential development. Townhouse, row house, and multifamily target units shall be located so as not to create a geographic concentration of target units within the residential development.
- C. Target units shall have the same proportion of dwelling unit types as the market-rate dwelling units in the residential development.
- D. The quality of exterior design and overall quality of construction of the target units shall be consistent with the exterior design and quality of construction of the market rate units.
- E. The affordable units shall be the same as the unit type of the market rate units within the development.
- F. Target units made available for purchase shall include space and connections for a clothes washer and dryer within the dwelling unit. Target units made available for rent shall include either connections for a clothes washer and dryer within the target unit or sufficient on-site self-serve laundry facilities to meet the needs of all tenants without laundry connections in their dwelling units.
- G. The residential development shall comply with all requirements of the Building Code, Fire Code, Housing Code and all other requirements related to the safety of the project.

17.92.100 - Density Bonus Application

Applications for a Density Bonus shall include:

- A. **Application Form.** The project Applicant shall submit an application on a form prescribed by the City, with all the information listed on the form as part of the request for a Density Bonus.
- B. **Site Plan.** A tentative map and/or site plan, drawn to scale, showing the number and location of all residential units, location and square footage of any commercial space, the location of the affordable units, and the layout of each unit (for single family, duplex and townhouse developments).

- C. **Design of Project.** The Applicant shall submit floor plans and elevations for each unit type, drawn to scale, and noting all colors, materials and exterior design features.
- D. **Pricing.** Proposed sales price, financing, terms, rental rates or other factors which will make the units affordable.
- E. **Phasing.** Construction schedule or phasing including the timing of the construction of the affordable dwelling units.
- F. **Land Donation.** If a Density Bonus is requested for a land donation, the location of the land to be dedicated, proof of site control and reasonable documentation that each of the requirements included in Government Code Section 65915(g) can be met.
- G. **Mixed Use Development.** If the Density Bonus request includes a request for a mixed-use development (where mixed-use is not permitted or conditionally permitted by the zoning district in which the property is located), the square footage of the commercial development shall be noted on the site plan.
- H. **Child Care Facility.** If the Density Bonus or incentive/concession is based on the provision of a childcare facility, a written summary addressing all the eligibility requirements in Government Code Section 65915(g) can be met. An application for a Site and Architectural Review to ensure that the facility will be constructed shall be submitted with an application for a Density Bonus.
- I. **Condominium Conversion.** If the Density Bonus or incentive/concession is based on the provision of affordable units as part of a condominium conversion, a written summary addressing the eligibility requirements as described in Government Code Section 65915(h) have been met.
- J. **Student Housing Development.** The Applicant shall provide evidence that the Applicant has entered into an operating agreement or master lease with one or more institutions of higher education for the institution or institutions to occupy all units of the student housing development with students from that institution or institutions. An operating agreement or master lease entered into pursuant to this subclause is not violated or breached if, in any subsequent year, there are not sufficient students enrolled in an institution of higher education to fill all units in the student housing development.
- K. **Incentives/Concession.** If an incentive/concession is requested, above the waiver of lot size granted by this Chapter, the Applicant shall submit the following:
 - 1. The number of incentives/concessions the applicant is eligible for pursuant to State Density Bonus Law.

2. A list of all Development Standards the Applicant is requesting be waived as part of the incentives/concessions for the project.
3. A list of all of the regulatory standards the Applicant is requesting be waived as part of the incentives/concessions for the project.
4. A written description of how the incentive will result in actual cost reductions.

17.92.110 - Review of Density Bonus Application

- A. **Reviewing Body.** An Application for a Density Bonus shall be considered by and acted upon by the approval body with authority to approve the residential development. The Density Bonus Plan may be ministerially approved or denied pursuant to the findings required by this Chapter. Any decision regarding a Density Bonus, incentive, concession, waiver, modification, or revised parking standard may be appealed in accordance with the requirements of Section 17.24.140 (Appeals) of the Zoning Ordinance.
- B. **Findings.** An Application for a Density Bonus shall be approved pursuant to the State Density Bonus Law if the following findings can be made, in addition to the required findings of other permits as part of the project.
 1. The residential development meets the requirements of this Article.
 2. The proposed project provides the required number of Target Units for the proposed affordability type as listed in Section 17.92.030 (Eligibility for Bonus, Incentives, or Concessions).
 3. The Applicant is requesting concessions or incentives that the project is eligible under Section 17.92.060 (Allowed Incentives or Concessions).
- C. **Denial.** An application for a Density Bonus may be denied if the following findings are made:
 1. The residential development, as proposed, does not meet the requirements of this Article.
 2. The concession or incentive does not result in identifiable and actual cost reductions to provide affordable housing.
 3. A concession or incentive would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or 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.

4. The concession or incentive would be contrary to state or federal law.
5. The proposed project does not meet the number of Target Units for the affordability type as listed in Section 17.92.030 (Eligibility for Bonus, Incentives, or Concessions).
6. The Applicant is requesting concessions or incentives in an amount greater than the number of incentives or concessions the project is eligible under Section 17.92.060 (Allowed Incentives or Concessions).

D. **Land Donation.** For projects that include land donation, the findings listed in Section 17.92.040(A)(8)(c) shall also be made.

17.92.120 - Density Bonus Housing Agreement.

A. **Agreement Required.** An applicant requesting a Density Bonus shall agree to enter into a Density Bonus Agreement (referred to as the “agreement”) with the City in the City’s standard form of agreement.

B. Agreement Provisions.

1. **Project Information.** The agreement shall include at least the following information about the project:
 - a. The total number of units approved for the housing development, including the number of designated dwelling units;
 - b. A description of the household income group to be accommodated by the housing development;
 - c. Duration of the use restrictions for designated dwelling units of the time periods required by Section 17.92.140(Continued Affordability and Availability);
 - d. A schedule for completion and occupancy of the designated dwelling units;
 - e. A description of the additional incentives and concessions being provided by the City;
 - f. A description of the remedies for breach of the agreement by the owners, developers, and/or successors-in-interest of the project; and

- g. Other provisions to ensure successful implementation and compliance with this chapter.

2. **Minimum Requirements.** The agreement shall provide, at minimum, that:

- a. The developer shall give the City the continuing right-of-first-refusal to lease or purchase any or all of the designated dwelling units at the appraised value;
- b. The deeds to the designated dwelling units shall contain a covenant stating that the developer or successors-in-interest shall not assign, lease, rent, sell, sublet, or otherwise transfer any interests for designated units without written notice to the City;
- c. The City shall have the authority to enter into other agreements with the developer, or purchasers of the designated dwelling units, to ensure that the required dwelling units are continuously occupied by eligible households;
- d. Applicable deed restrictions, in a form satisfactory to the City Attorney, shall contain provisions for the enforcement of owner or developer compliance. Any default or failure to comply may result in foreclosure, specific performance, or withdrawal of the certificate of occupancy;
- e. In any action taken to enforce compliance with the deed restrictions, the City Attorney shall, if compliance is ordered by a court of competent jurisdiction, take all action that may be allowed by law to recover all of the City's costs of action including legal services; and
- f. Compliance with the agreement will be monitored and enforced in compliance with the measures included in the agreement.

3. **For-Sale Housing Conditions.** In the case of a for-sale housing development, the agreement shall provide for the following conditions governing the initial sale and use of designated dwelling units during the applicable restriction period:

- a. Designated dwelling units shall be owner-occupied by eligible households, or by qualified residents;
- b. The initial purchaser of each designated dwelling unit shall execute an instrument or agreement which:

- (1) Restricts the sale of the unit in compliance with this Article, or other applicable City policy or ordinance, during the applicable use restriction period;
 - (2) Contains provisions as the City may require ensuring continued compliance with this Article and State law; and
 - (3) Shall be recorded against the parcel containing the designated dwelling unit.
- c. The agreement shall include an equity sharing provision, as required by Government Code section 65915(c).
4. **Rental Housing Conditions.** In the case of a rental housing development, the agreement shall provide for the following conditions governing the use of designated dwelling units during the applicable restriction period:
 - a. The tenant qualifications, affordable rent category(ies), and designating dwelling units for qualified tenants;
 - b. Provisions requiring owners to maintain books and records to demonstrate compliance with this chapter;
 - c. Provisions requiring owners to submit an annual report to the City demonstrating compliance with this chapter; and
 - d. The applicable use restriction period shall comply with the time limits for continued availability in Section 17.92.140 (Continued Affordability and Availability).

C. Execution of Agreement.

1. Following approval of the agreement, and execution of the agreement by all parties, the City shall record the completed agreement on the parcels designated for the construction of designated dwelling units, at the County Recorder's Office.
2. The approval and recordation shall take place at the same time as the final map or, where a map is not being processed, before issuance of building permits for the designated dwelling units.
3. The agreement shall be binding on all future owners, developers, and/or successors-in-interest.

17.92.130 - Deed Restriction

A. **Residential Units for Rent.** Prior to the issuance of a Building Permit, the Applicant shall record a restrictive covenant in the form prescribed by the City, which shall run with the land which contains the following:

1. A prohibition on non-residential use of any units, with the exception of Home Occupations approved by the City;
2. A prohibition against renting or leasing the units for a period of less than thirty (30) days;
3. A description of the affordability requirements of the Residential Housing Development pursuant to the Density Bonus and Density Bonus Housing Agreement;
4. The number of years the property is subject to affordability as required by the Density Bonus Housing Agreement; and
5. A notation that the property is subject to a Density Bonus and the requirements of a Density Bonus Housing Agreement.

B. **Residential Units for Sale.** Prior to the issuance of a Building Permit, the Applicant shall record a restrictive covenant in the form prescribed by the City, for each lot which is for sale in the development, which shall run with the land which contains the following:

1. A prohibition on non-residential use of any units, with the exception of Home Occupations approved by the City;
2. A prohibition against renting or leasing the units for a period of less than thirty (30) days;
3. The owner is required to occupy their unit as their principal residence;
4. The restriction on the sale of the affordable unit to another household that meets the affordability requirements of the unit for a period of time required by Section 65915 of the Government Code; and
5. A notation that the property is subject to a Density Bonus and the requirements of a Density Bonus Housing Agreement.

17.92.140 - Continued Affordability and Availability

The units that qualified the housing development for a Density Bonus and other incentives and concessions shall continue to be available as affordable units in compliance with the following requirements, as required by Government Code Section 65915(c). See also Section 17.92.150 (Control of Resale).

- A. **Duration of Affordability.** The applicant shall agree to, and the City shall ensure, the continued availability of the units that qualified the housing development for a Density Bonus and other incentives and concessions, as follows:
1. **Low- and Very Low-Income Units.** The continued affordability of all low- and very low-income qualifying units shall be maintained for fifty-five (55) years, or a longer time if required by the construction or mortgage financing assistance program, mortgage insurance program, rental subsidy program, or by City policy or ordinance.
 2. **Moderate-Income Units in Common Interest Development.** The continued availability of moderate-income units in a common interest development shall be maintained for a minimum of thirty (30) years, or a longer time if required by City policy or ordinance.
- B. **Unit Cost Requirements.** The rents and owner-occupied costs charged for the housing units in the development that qualify the project for a Density Bonus and other incentives and concessions shall not exceed the following amounts during the period of continued availability required by this section:
1. **Rental Units.** Rents for the lower-income Density Bonus Units shall be set at an affordable rent as defined in Health and Safety Code Section 50053.
 - a. For housing developments specified in Section 17.92.030(A)(7), rents for all units in the development, including both base density and Density Bonus Units, shall be as follows:
 - i. The rent for at least twenty percent (20%) of the units in the development shall be set at an affordable rent, as defined in Health and Safety Code Section 50053.
 - ii. The rent for the remaining units in the development shall be set at an amount consistent with the maximum rent levels for a housing development that receives an allocation of state or federal low-income housing tax credits from the California Tax Credit Allocation Committee.
 2. **Owner-Occupied Units.** Owner-occupied units shall be available at an affordable housing cost as defined in Health and Safety Code Section 50052.5.

17.92.150 - Control of Resale

To maintain the availability of for-sale affordable housing units constructed in compliance with this chapter, the following resale conditions shall apply.

- A. **Limits on Resale Price.** The price received by the seller of an affordable unit shall be limited to the purchase price plus an increase based on the local consumer price index, an amount consistent with the increase in the median income since the date of purchase, or the fair market value, whichever is less. Before offering an affordable housing unit for sale, the seller shall provide written notice to the City of their intent to sell. The notice shall be provided by certified mail to the Director.
- B. **Units to be Offered to the City.** Home ownership affordable units constructed, offered for sale, or sold under the requirements of this section shall be offered to the City or its assignee for a period of at least ninety (90) days from the date the notice of intent to sell is delivered to the City by the first purchaser or subsequent purchasers. Home ownership affordable units shall be sold and resold from the date of the original sale only to households determined to be eligible for affordable units in compliance with this section. The seller shall not levy or charge any additional fees nor shall any “finder’s fee” or other monetary consideration be allowed other than customary real estate commissions and closing costs.
- C. **Declaration of Restrictions.** The owners of any affordable unit shall attach and legally reference in the grant deed conveying title of the affordable ownership unit a declaration of restrictions stating the restrictions imposed in compliance with this section. The grant deed shall afford the grantor and the City the right to enforce the declaration of restrictions. The declaration of restrictions shall include all applicable resale controls, occupancy restrictions, and prohibitions required by this section.
- D. **City to Monitor Resale of Units.** The City may monitor the resale of ownership affordable units. The City or its designee shall have a ninety (90) day option to commence purchase of ownership affordable units after the owner gives notification of intent to sell. Any abuse in the resale provisions shall be referred to the City for appropriate action.

17.92.160 - Judicial Relief

- A. **Judicial Relief.** As provided by Government Code Section 65915(d)(3), the applicant may initiate judicial proceedings if the City refuses to grant a requested Density Bonus, incentive, or concession.