

Chapter IX, Article 4 of the Zoning Code shall be repealed and replaced in its entirety. Draft revisions from the September 14, 2026, Planning Commission meeting and subsequent City Attorney draft revisions are shown in ~~strikethrough~~ and underline format.

Chapter IX Special Land Use Regulations

Article 4 Density Bonuses and Other Incentives

§ 13-152.1 Purpose.

This article is adopted pursuant to California Government Code sections 65915 through 65918, referred to herein as the State Density Bonus Law. The purpose of this article is to establish a density increase and incentive program for an eligible owner-occupied (for-sale) or renter-occupied (for-rent) housing development to create affordable housing opportunities and availability of housing for moderate-, low-, and very low-income households, ~~and senior citizens,~~ and other groups as identified in State Density Bonus Law. All references to the Government Code or other state code in this article shall mean and include any successor and/or amended section thereto.

§ 13-152.2 Applicable zones.

This article shall be applicable in all zoning districts that allow for residential development.

§ 13-152.3 Qualifications.

All housing development projects that propose five or more residential dwelling units that qualify for a density increase and other incentives under Government Code section 65915 shall be eligible for a density bonus unit increase (including incentives and/or concessions) consistent with the requirements, provisions and obligations set forth therein.

§ 13-152.4 Density increase and other incentives.

The City shall grant qualifying housing development projects or qualifying land transfers density bonuses, incentives or concessions as described in State Density Bonus Law.

§ 13-152.5 Application and Review.

An application for a density bonus or other incentive under this article shall be submitted to the Planning Division on the applicable form, in a manner prescribed by the Planning Division, to be processed concurrently with all other entitlements of the proposed housing development project. The application shall contain sufficient information to fully evaluate the request under the requirements of this article and applicable State law.

(a) *Application requirements.* The following are the minimum submittal requirements for a density bonus application.

- (1) Any applicant requesting a density bonus and any incentive(s), waiver(s), parking reduction(s), or commercial development bonus(es) provided by State Density Bonus Law shall submit a density bonus application, indicating intent to utilize State Density Bonus Law, as described below. The requests contained in the density bonus application shall be processed concurrently with a planning

application. The applicant shall be informed whether the application is complete, consistent with Government Code section 65943.

(2) The density bonus application shall include the following information.

a. Requested Density Bonus for a housing development.

- i. The zoning and general plan designations and assessor's parcel number(s) of the housing development site.
- ii. A summary table showing the maximum number of dwelling units permitted by the zoning and general plan excluding any density bonus units, proposed affordable units by income level, proposed bonus percentage, the number of density bonus units proposed, the total number of dwelling units proposed on the site, and the resulting density in units per acre. The applicable calculations used to determine these items shall be included in the summary table.
- iii. A tentative map and/or preliminary site plan, and a floor plan, drawn to scale, showing the number and location of all proposed units, including the location of proposed affordable units and density bonus units.
- iv. Demonstrate compliance with the review requirements of section 13-152.5(b)(5).
- v. A description of project funding sources that have their own affordability restrictions, if any.
- vi. A description of all dwelling units existing on the site in the five-year period preceding the date of submittal of the application and identification of any units rented in the five-year period. If dwelling units on the site are currently rented, income and household size of all residents of currently occupied units, if known. If any dwelling units on the site were rented in the five-year period but are not currently rented, the income and household size of residents occupying dwelling units when the site contained the maximum number of dwelling units, if known. This information shall also be provided on the applicable supplemental application form as prescribed by the Planning Division.
- vii. A description of any recorded covenant, ordinance, or law applicable to the site that restricted rents to levels affordable to very low- or lower-income households in the five-year period preceding the date of submittal of the application.
- viii. 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.

b. *Requested Incentive(s) for a Housing Development.* If the application proposes one or more incentives for a housing development pursuant to State Density Bonus Law, the density bonus application shall include the following information for each incentive requested, shown on a site plan:

- i. The City's usual development standard and the requested development standard or regulatory incentive.
 - ii. Except where mixed-use zoning is proposed as an incentive, reasonable documentation to show that any requested incentive will result in identifiable and actual cost reductions to provide for affordable housing costs or rents.
 - iii. Where mixed-use zoning is proposed, reasonable documentation that nonresidential land uses will reduce the cost of the housing development, that the nonresidential land uses are compatible with the housing development and the existing or planned development in the area where the proposed housing development will be located, and that mixed use zoning will provide for affordable housing costs or rents.
- c. *Requested Waiver(s) for a Housing Development.* If an application proposes waivers of development standards for a housing development pursuant to State Density Bonus Law, the density bonus application shall include the following information for each waiver requested on each lot, shown on a site plan if appropriate:
 - i. The City's usual development standard and the requested development standard.
 - ii. Reasonable documentation that the development standards for which a waiver is requested will have the effect of physically precluding the construction of a development at the densities or with the concessions or incentives permitted by Government Code section 65915.
 - iii. *Requested Parking Reduction for a Housing Development.* In the event an application proposes a parking reduction for a housing development pursuant to Government Code section 65915(p), a table showing parking required by the zoning regulations, parking proposed under section 65915(p), and reasonable documentation that the project is eligible for the requested parking reduction.
 - iv. *Child Care Facility for a Housing Development.* If a density bonus or incentive is requested for a child care facility in a housing development, reasonable documentation that all of the requirements included in Government Code section 65915(h) can be met.
 - v. *Senior and Student Housing.* If a density bonus or incentive is requested for a senior or student housing development, reasonable documentation that all the requirements included in Government Code section 65915(b) can be met.
 - vi. *Residential Common Interest Conversion.* If a density bonus or incentive is requested for a residential common interest conversion, reasonable documentation that all of the requirements included in Government Code section 65915.5 can be met.

(3) *Fee.* Payment of any fee in an amount set by resolution of the City Council for staff time necessary to determine compliance of the Density Bonus Plan with State Density Bonus Law.

(b) *Review requirements.* All requests for density bonuses, incentives, parking reductions, waivers, or commercial development bonuses shall be considered and acted upon by the approval ~~body with authority~~ with jurisdiction to approve the development within the timelines prescribed by Government Code ~~Section~~sections 65950 et seq., with right of appeal to the applicable ~~approval~~ appellate authority identified in ~~Planning Application Review Process Table 13-29(c)~~ Chapter IX of Title 2 of this code.

(1) *Eligibility for Density Bonus(es), Incentive(s), Parking Reduction(s), and/or Waiver(s) for a Housing Development.* To ensure that an application for a housing development conforms with the provisions of State Density Bonus Law, the staff report presented to the decision-making body shall state whether the application conforms to the following requirements of state law:

- a. The housing development provides the affordable units, ~~or senior housing,~~ or housing for other groups, required by State Density Bonus Law to be eligible for the density bonus and any incentives, parking reduction, or waivers requested, including the replacement of units rented or formerly rented to low and very low income households as required by Government Code section 65915(c)(3).
- b. Any requested incentive will result in identifiable and actual cost reductions to provide for affordable housing costs or rents; except that, if a mixed-use development is requested, the application must instead meet all of the requirements of Government Code section 65915(k)(2).
- c. The development standards for which a waiver is requested would have the effect of physically precluding the construction of a development at the densities or with the concessions or incentives permitted by Government Code section 65915.
- d. The housing development is eligible for any requested parking reductions under Government Code section 65915(p).
- e. If the density bonus is based all or in part on donation of land, all of the requirements included in Government Code section 65915(g) have been met.
- f. If the density bonus or incentive is based all or in part on the inclusion of a child care facility, all of the requirements included in Government Code section 65915(h) have been met.
- g. If the density bonus or incentive is based all or in part on the inclusion of senior and student housing development, all of the requirements included in Government Code section 65915(b) have been met.
- h. If the density bonus or incentive is based all or in part on the inclusion of affordable units as part of a condominium conversion, all of the requirements included in Government Code section 65915.5 have been met.

(2) The decision-making body shall grant an incentive requested by the applicant unless it makes a written finding, based upon substantial evidence, of any of the following:

- a. The proposed incentive does not result in identifiable and actual cost reductions to provide for affordable housing costs, as defined in Health and Safety Code section 50052.5, or for affordable rents, as defined in Health and Safety Code section 50053; or
 - b. The proposed incentive would be contrary to state or federal law; or
 - c. The proposed incentive would have a specific, adverse impact upon public health or safety or the physical environment or on any real property that is listed in the California Register of Historic Resources, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the housing development unaffordable to low and moderate income households. For the purpose of this subsection, "specific adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, written public health or safety standards, policies, or conditions as they existed on the date that the application for the housing development was deemed complete.
- (3) The decision-making body shall grant the waiver of development standards requested by the applicant unless it makes a written finding, based upon substantial evidence, of any of the following:
- a. The proposed waiver would be contrary to state or federal law; or
 - b. The proposed waiver would have an adverse impact on any real property listed in the California Register of Historic Resources; or
 - c. The proposed waiver would have a specific, adverse impact upon public health or safety or the physical environment, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the housing development unaffordable to low and moderate income households. For the purpose of this subsection, "specific adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, written public health or safety standards, policies, or conditions as they existed on the date that the application for the housing development was deemed complete.
- (4) If any density bonus, incentive, parking reduction, or waiver is approved pursuant to this article, the applicant shall enter into an affordable housing agreement ~~or senior housing agreement~~ with the City described below.
- a. The affordable housing agreement ~~and/or senior housing agreement~~ shall be in a form approved by the City Attorney, to be executed by the City Manager, to ensure that the requirements of this article are satisfied. A housing agreement required under this article shall guarantee the affordability of the affordable units for a minimum of 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. The housing agreement shall include but not be limited to the following:
 - i. Identify the type, income limits, maximum rent limits, size and location of each affordable unit;
 - ii. Specify phasing of the affordable units in relation to the market-rate units;

- iii. A fair housing marketing plan for the process by which qualified households will be reviewed and selected to rent or purchase affordable units;
 - iv. Provisions for income certification and screening of potential owners or renters of the affordable units; and
 - v. Monitoring and recordkeeping requirements as determined by the City and affordability restrictions on the transfer of property.
- b. Where a density bonus, waiver, or parking reduction is provided for a market-rate senior housing development, the applicant shall enter into a restrictive covenant with the City, running with the land, in a form approved by the City Attorney, to be executed by the City Manager, to require that the housing development be operated as "housing for older persons" consistent with state and federal fair housing laws.
 - c. The executed housing agreement shall be recorded against the property where the housing development project is located prior to final or parcel map approval, or, where a map is not being processed, prior to issuance of building permits for the housing development project. The affordable housing agreement, ~~or senior housing agreement~~, shall be binding on all future owners and successors in interest.

(5) Design and Quality.

- a. The City may not issue building permits for more than 50% of the market rate units until it has issued building permits for all of the affordable units, and the city may not approve any final inspections or certificates of occupancy for more than 50 percent of the market rate units until it has issued final inspections or certificates of occupancy for all of the affordable units.
- b. Affordable units shall be comparable in exterior appearance and overall quality of construction to market-rate units in the same housing development. Interior finishes and amenities may differ from those provided in the market rate units, but neither the workmanship nor the products may be of substandard or inferior quality as determined by the City.
- c. The number of bedrooms of the affordable units shall at least equal the minimum number of bedrooms of the market-rate units and should be comparable to the average number of bedrooms in the market-rate units, and include comparable square feet by unit size.
- d. Affordable units shall be evenly distributed across all unit types, buildings, floors, and locations on the site, comparable to those of the market-rate units, subject to the review and approval by the Community Development Director.
- e. Affordable units shall have access to the same amenities as the market rate units included within the affordable ownership cost or affordable rent for the affordable unit. For example, residents of the affordable units shall not be excluded from common open space, parking, storage, and any other community facilities or amenities in the residential development project, nor shall household in affordable units be charged more than an affordable rent or an affordable cost, as defined in as defined in section 50052.5 of the

Health and Safety code, or for affordable rents, as defined in section 50053 of the Health and Safety Code, for the use of such facilities and amenities.

13-152.6 Continued affordability.

Consistent with the provisions of State Density Bonus Law, prior to a density increase or other incentives being approved for a project, the City and the applicant shall record an affordable housing agreement or covenant to be recorded against the residential development, all affordable units, and any site subject to the provisions of this article to ensure the continued availability of the affordable units as described under review requirements subsection (d).

13-152.7 Replacement Housing Requirements.

In accordance with ~~California~~ Government Code section 66300.5 et seq., the City of ~~Costa Mesa~~ shall approve and issue a building permit for a housing development project which requires the demolition of one or more residential dwelling units when the project creates at least as many residential dwelling units of equivalent size as will be demolished.

13-152.8 Affordable Housing Units.

Affordable replacement units required by this article, or section 13-158, may count toward any affordable housing units required in connection with the granting of a density bonus, or the requirements of the City's inclusionary housing program in Chapter XVII Affordable Housing Ordinance. The affordable requirements units shall be subject to a recorded affordable housing agreement as required by ~~the City~~ in section 13-333 of this code.

13-152.9 Guidelines.

The Community Development Director may from time to time adopt "State Density Bonus Law Affordable Housing Guidelines" for the purpose of determining household income and affordable housing cost, determining buyer eligibility, monitoring, other relevant administrative provisions, providing guidance related to requirements under the article, and determining acceptable alternative means of compliances within the requirements of this article.

13-152.10 Interpretation.

If any portion of this article conflicts with State Density Bonus Law or other applicable state law, state law shall control. Any ambiguities in this section shall be interpreted to be consistent with State Density Bonus Law.