

Contra Costa County

Density Bonus Guidelines 2007 Edition

These Contra Costa County Density Bonus Guidelines are maintained as a policy interpretation of County Code Chapter 822-2 to implement State law regarding Density Bonus as set forth in Government Code Section 65915 et seq. These Guidelines shall be revised and updated to reflect future changes in State Density Bonus law and are utilized by the County to accomplish the objectives of State Density Bonus law.

Upon request by a developer, development proposals that meet the requirements set forth in these Guidelines shall be granted a density bonus and incentives or concessions, as applicable.

The granting of a density bonus shall not be interpreted, in and of itself, to require a General Plan amendment, zoning change, or other discretionary approval.

Density Bonus regulations apply only to housing developments consisting of five (5) or more dwelling units or lots. All dwelling units (affordable and market rate) that are part of a density bonus project must be constructed on-site, except as allowed under #6, Land Donation.

1. Definitions

As used in these Guidelines, the terms below shall be defined as follows:

- **Affordable Rent** – a rent that does not exceed the following calculations: very low income- 50 percent of the area median income (AMI) for Contra Costa County, adjusted for household size, multiplied by 30 percent and divided by 12, and lower income- 60 percent of the AMI for Contra Costa County, adjusted for household size, multiplied by 30 percent and divided by 12.
- **Affordable Sales Price** – a sales price at which lower, very low or moderate income households can qualify for the purchase of target units, taking into account available financing, number of bedrooms and therefore, assumed household size, reasonable down payment, and affordable housing costs. The affordable sales price for lower income households must not exceed a price affordable to households whose income is at or below 70 percent AMI. The affordable sales price for very low income households must not exceed a price affordable to households whose income is at or below 50 percent AMI. The affordable sales price for moderate

income households must not exceed a price affordable to persons and families whose income is at or below 110 percent AMI.

- **Child care facility** - 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 child care centers.
- **Condominium** - a condominium consists of an undivided interest in common in a portion of real property coupled with a separate interest in space called a unit, the boundaries of which are described on a recorded final map, parcel map, or condominium plan in sufficient detail to locate all boundaries thereof.
- **Development standard** - includes site or construction conditions that apply to a residential development pursuant to any ordinance, General Plan element, specific plans, or other local condition, law, policy, resolution or regulation.
- **Maximum allowable residential density** - the density allowed under the zoning ordinance, or if a range of density is permitted, the maximum allowable density for the specific general plan density applicable to the project.
- **Planned development** - a development (other than a community apartment project, a condominium project, or a stock cooperative) having either or both of the following features:
 1. The common area is owned either by an association or in common by the owners of the separate interests who possess appurtenant rights to the beneficial use and enjoyment of the common area.
 2. A power exists in the association to enforce an obligation of an owner of a separate interest with respect to the beneficial use and enjoyment of the common area by means of an assessment which may become a lien upon the separate interests.
- **Senior Housing Project** - residential development, of at least 35 units, developed and intended for persons 55 years of age or older.
- **Specific, adverse impact** - 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 the application was deemed complete.

2. Qualifications for Density Bonus

For a project to qualify for a density bonus, it must first meet any affordable requirements applicable to the project, such as inclusionary units under Chapter 822-4. A project will qualify for a density bonus when adding affordable units beyond those required for the project. As such, affordable units developed to meet the County's inclusionary housing requirements pursuant to Chapter 822-4 of the County Code do NOT qualify as affordable units for the purposes of calculating a density bonus, beyond the density bonus allowed in Chapter 822-4. See Tables 7 and 8 below for examples on how to calculate density bonus.

Apart from the affordable requirements noted above, a project must propose one of the following to qualify for density bonus:

Table 1. Minimum % of Affordable Units
5% very low income
10% lower income
100% senior project
10% ownership for moderate income (condominiums or planned development)

This minimum percentage is based on the percent of the maximum number of units allowed under the zoning/General Plan for the parcel.

For example: if the zoning/General Plan allows 20 units on the parcel, 2 units of lower income (10 percent of 20 units), in excess of Chapter 822-4 requirements, qualifies the project for a density bonus.

a. Calculating Basic Density Bonus

If a developer proposes to meet the minimum affordable units required to qualify for a density bonus, then the density bonus is calculated as follows:

Table 2. Basic Density Bonus	
5% very low income	20% density bonus
10% lower income	20% density bonus
100% senior project	20% density bonus
10% ownership for mod. income	5% density bonus

b. Calculating Possible Additional Density Bonus

A development may qualify for a greater density bonus if a higher percentage of affordable units are proposed beyond the minimum required percentage above. Density bonus as beyond the minimum requirements for a density bonus is calculated on a sliding scale based on affordability level. (See Tables 4 through 6)

Table 3. Sliding Scale Density Bonus	
Income level	For each percentage increase beyond the minimum density bonus listed above, the density bonus percentage is increased by:
Very Low Income	2.5%
Lower Income	1.5%
Moderate Income (ownership)	1%

In no case may the total density bonus allowed (basic density bonus plus sliding scale density bonus) exceed 35 percent. All calculations resulting in fractional units shall be rounded up to the next whole number. This sliding scale density bonus calculates as follows:

Table 4. Very Low Income Calculations		
% Very Low Income Units (beyond 822-4 requirements)	% Density Bonus	Incentives/Concessions
5	20	1
6	22.5	1
7	25	1
8	27.5	1
9	30	1
10	32.5	2
11	35	2
15	35	3

Table 5. Low Income Calculation		
% Low Income Units (beyond 822-4 requirements)	% Density Bonus	Incentives/Concessions
10	20	1
11	21.5	1
12	23	1
13	24.5	1
14	26	1
15	27.5	1
16	29	1
17	30.5	1
18	32	1
19	33.5	1
20	35	2
30	35	3

Table 6. Moderate Income Calculation Condo/ Planned Development		
% Moderate Income Ownership Units (beyond 822-4 requirements)	% Density Bonus	Incentives/Concessions
10	5	1
11	6	1
12	7	1
13	8	1
14	9	1
15	10	1
16	11	1
17	12	1
18	13	1
19	14	1
20	15	2
21	16	2
22	17	2
23	18	2
24	19	2
25	20	2
26	21	2
27	22	2
28	23	2
29	24	2
30	25	3
31	26	3
32	27	3
33	28	3
34	29	3
35	30	3
36	31	3
37	32	3
38	33	3
39	34	3
40	35	3

c. Sample Calculations

EXAMPLES: Based on the zoning and General Plan allowing for 20 units on a site (Chapter 822-4 would require 3 affordable units, which is 15 percent of the development):

Table 7. Low Income Density Bonus Example (For-sale)	
Maximum units allowed by zoning/general plan	20 units
Inclusionary units required under Chapter 822-4	3 affordable units (17 market rate units)
Inclusionary Density Bonus	3 additional market rate units
# of units offered to qualify for minimum Density Bonus (from Table 1)	10 % of the 20 units allowed by zoning/general plan =2 low income units
# of units offered (subtotal)	2 low income units, 3 inclusionary affordable units, and 15 market rate units
Density Bonus % (from Table 4)	20 % x 20 units = 4 additional units
Total unit distribution of project (total)	29 units (2 low income units, 3 inclusionary units, and 24 market rate units)

Table 8. Moderate Income Density Bonus Example (Condominium and Planned Development Projects Only)	
Maximum units allowed by zoning/general plan	20 units
Inclusionary units required under Chapter 822-4	3 affordable units (17 market rate units)
Inclusionary Density Bonus	3 additional market rate units
# of units offered to qualify for minimum Density Bonus (from Table 1)	10 % of the 20 units allowed by zoning/general plan = 2 moderate income units
# of units offered (subtotal)	2 moderate income, 3 inclusionary affordable units, and 15 market rate units
Density Bonus % (from Table 4)	5 % x 20 units = 1 additional unit
Total unit distribution of project (total)	24 units (2 are moderate income units, 3 are inclusionary units 19 market rate units)

3. Concessions/Incentives

- a. The developer may submit a proposal for specific incentives or concessions. The County, through the approving body, shall grant the incentive or concession requested unless the approving body makes one of the following written findings:
 1. The incentive or concession is not required in order to provide the affordable housing units OR
 2. The incentive or concession requested would result in a specific adverse impact upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources, and there is no feasible method to mitigate or avoid such impact without making the development of low and moderate income units unaffordable.
 3. See tables 4, 5 and 6 to determine how many concessions or incentives will be given.
- b. Incentive or concession means:
 1. A reduction in site development standards or a modification of zoning code requirements that exceed the minimum building standards approved by the California Building Standards Commission, 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. The incentive or concession shall result in identifiable, financially sufficient, and actual cost reductions.
 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 County that result in identifiable, financially sufficient, and actual cost reductions. This does not limit or require the provision of direct financial incentives for the housing development, including the provision of publicly owned land by the County, or the waiver of fees or dedication requirements.

4. Waiver of Development Standards

In addition to the types of incentives and concessions listed above, a developer may request a waiver or modification of "development or zoning standards" that would otherwise inhibit the utilization of the density bonus on specific sites. The developer shall show that the waiver or modification is necessary to make the project economically feasible. Therefore, the developer must provide a financial analysis showing that failure to receive a modification or waiver of the development standard makes the project infeasible, and that the waiver of the standard makes the project economically feasible. This analysis must be accepted by the Community Development Director for a waiver to be considered. The final decision on granting of a waiver will be made by the approving body. Affordability requirements are not considered "development standards".

Nothing in this subdivision shall be interpreted to require the County to waive or reduce development standards if the waiver or reduction would have a specific, adverse impact 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 subdivision shall be interpreted to require a local government 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.

5. Parking Requirement Reduction

Under State Law, the parking standards for Density Bonus projects must be reduced upon the request of the developer. (Such reduction in parking standards does not count as one of the incentives or concessions in #3 above)

The reduced parking standards are as follows:

0 to 1 bedroom	One on-site parking space
2 to 3 bedrooms	Two on-site parking space
4 or more bedrooms	Two and a half on-site parking spaces

If the resulting number of parking spaces results in a fractional number, the number shall be rounded to the next whole number. Utilization of this parking requirement allows tandem or uncovered parking. On street parking shall not be allowed to satisfy the parking requirement.

The number of parking spaces includes disabled and guest parking.

An applicant may request additional parking incentives or concessions beyond those provided in this section.

6. Land Donation

Under State law, a developer may opt to donate land in exchange for the granting of a Density Bonus. The requirements for qualifying for density bonus through land donation are as follows:

- a. Developer must donate at least one acre of land of sufficient size to accommodate 40 units (defined by State law as a minimum of one acre);
- b. The number of units accommodated on the donated land shall not be less than 10 percent of the total proposed development;
- c. The land must be appropriately zoned to accommodate very low income affordable housing;
- d. The land must be served by adequate public facilities and infrastructure;
- e. The land shall have all necessary permits and approvals, other than building permits, necessary for the development of very low income housing no later than the date of approval of the final subdivision map, subdivision map, or residential development application;
- f. Design review can occur later if it is not reviewed prior to transfer;
- g. The land is transferred no later than final approval of the final subdivision map, final map or residential development application for the donating project;
- h. The land and affordable units must be subject to deed restrictions ensuring continued affordability, which shall be recorded on the property at the time of dedication;
- i. The County may require the developer to identify and transfer the land to a specific affordable housing developer if the land is not donated directly to the County. If the land is not transferred to the County, the County shall approve of the affordable housing developer;
- j. The transferred land must be within the boundaries of the development or, with approval of the County, within 1/4 mile (1,320 feet) of the boundary of the development.

If the developer meets these qualifications, the development would qualify for a basic 15 percent density bonus above the maximum allowed density.

The density bonus may be increased on a sliding scale such that: for each 1 percent above 10 percent of the total development, the development can have a 1 percent increase in density bonus, up to a maximum of 35 percent.

For example: Land and permits for 15 percent of the number of units in the development on donated land = 15 percent density bonus.

7. Child Care

A developer may qualify for a density bonus by providing a child care center (not a family day care home) within or adjacent to the development.

Where the development otherwise qualifies for a density bonus as described in Table 1 above; AND the developer agrees to include a child care facility onsite or adjacent to the site, the developer is entitled to a density bonus in the amount of the square footage of the

child care; OR an additional concession or incentive if that concession or incentive contributes to the economic feasibility of construction of the child care facility.

Where a child care facility is provided in conjunction with the granting of a density bonus, the following provisions apply:

- a. The child care facility shall be operable at least as long as the affordable units are required to remain affordable;
- b. The children attending the child care center are required to qualify based on household income in the same percentage as the percentage of affordable housing in the development in accordance with the proportional affordability level;
- c. The number of children at each affordability level must be the same or greater than the percentage required

If a finding can be made that there are sufficient child care facilities in the community, no concession or density bonus is required to be given.

8. Application Process

An applicant proposing a housing development pursuant to this chapter may submit a preliminary application prior to the submittal of any formal request for approval of a housing development. A preliminary application should include the following information:

- A brief description of the proposed housing development, including the total number of units, target units, and density bonus units proposed.
- The zoning and General Plan designations and assessors parcel number(s) of the project site.
- A vicinity map and preliminary site plan, drawn to scale, including building footprints, preliminary elevations, driveway and parking layout.

Applicants are encouraged to schedule a pre-application meeting with planning staff to discuss and identify potential application issues, including prospective concessions or incentives, or prospective waivers or reductions of existing development and zoning standards.

9. Developer Agreements

As a condition of approval, all developers receiving a density bonus will be required to enter into a density bonus developer agreement. The density bonus developer agreement shall include the following information:

- The total number of units approved for the housing development, including the number of target units.
- A description of the affordability and occupancy restrictions for the target units (i.e., very low income households, lower income households, moderate income households, or qualifying residents), including the standards for determining the corresponding affordable rent or affordable sales price and housing cost.

- The location, unit sizes (in square feet), and number of bedrooms of all units in the development, including the target units.
- Term of use restrictions, including the time periods of affordability.
- A schedule of completion and occupancy of all units in the development, including the target units.
- A description of all concessions or incentives.
- If applicable, tenure of use restrictions and attendance restrictions for child care facilities.
- A description of remedies for breach of the agreement by either party.
- Other provisions to ensure implementation and compliance with the ordinance.

10. For Sale Housing Terms

In the case of for-sale housing developments, the density bonus housing agreement shall provide for the following terms governing the initial sale and use of target units during the applicable tenure of use restriction period:

- Target units shall, upon initial sale, be sold at an affordable sales price and housing cost to eligible very low income households, lower income households, moderate income households, or qualified residents (i.e., maintained as senior housing) as defined in this ordinance.
- Target units shall be owner-occupied initially by eligible very low or lower income households, or by moderate income households in the case of common interest developments, or by qualified residents in the case of senior citizen housing.
- The initial purchaser of each target unit shall execute an instrument or agreement in the form of a deed restriction approved by the Director restricting the sale of the target unit in accordance with the provisions of this ordinance during the applicable tenure of use restriction period. This deed restriction shall be recorded against the parcel containing the target unit and shall contain those provisions that the Director may require to ensure continued compliance with this chapter and statutory requirements and to put subsequent purchasers on notice of the conditions and terms during the applicable use restriction period.
- In case of common interest developments, the density bonus housing agreement shall include an equity-sharing agreement that complies with Government Code section 69915(c)(2).