

**CALIFORNIA COASTAL COMMISSION**

SAN DIEGO AREA  
7575 METROPOLITAN DRIVE, SUITE 103  
SAN DIEGO, CA 92108-4421  
(619) 767-2370



October 15, 2015

# W25b

TO: COMMISSIONERS AND INTERESTED PERSONS

FROM: SHERILYN SARB, DEPUTY DIRECTOR, SD COAST DISTRICT  
GABRIEL BUHR, COASTAL PROGRAM MANAGER, SD COAST DISTRICT

SUBJECT: **PROPOSED MINOR AMENDMENT #LCP-6-CAR-15-0024-2 (DENSITY BONUS UPDATE) TO THE CITY OF CARLSBAD LOCAL COASTAL PROGRAM**

The City of Carlsbad is requesting that its certified Local Coastal Program Implementation Plan (IP) be amended through minor revisions to the text of the Zoning Ordinance. The purpose of this amendment is to make the City's regulation of density bonuses consistent with recent changes to State law (California Assembly Bill 2222). Specifically, these changes address the replacement of affordable dwelling units when requesting a new density bonus, and the duration of any density bonus agreement. This amendment was filed on September 23, 2015, pursuant to Section 30514(c) of the Coastal Act and Section 13553 of the Commission's Regulations.

## **Procedure**

Pursuant to Section 30514 (c) of the Coastal Act and Section 13554 (a) of the Commission's Regulations (Cal. Code of Regs., tit. 14), the Executive Director has determined that the proposed amendment is "minor" in nature. Section 13554 (a) defines a minor amendment as changes in wording which make the use as designated in the zoning ordinances, maps or other implementing actions more specific and which do not change the kind, location, intensity or density of use and are consistent with the certified land use plan.

Pursuant to Section 13555, the Executive Director will report this determination to the Coastal Commission at the following date and location:

**DATE and TIME:**

Wednesday, November 4, 2015  
9:00 a.m.

**LOCATION:**

Oceano Resort Hotel  
280 Capistrano Drive  
Half Moon Bay, CA 94019

At that time, any objections to this determination, received within ten days of the transmittal of this notice, will also be reported to the Commission. This proposed minor amendment will be deemed approved unless one-third of the appointed members of the Commission request that it be processed in accordance with Section 13555 (b) of the

Code of Regulations as a major amendment. Otherwise, the minor amendment will become effective ten days from the date the Commission concurs with the Executive Director's designation.

If you have any questions or need additional information regarding this proposed amendment, please contact Gabriel Buhr at the above office. Any objections to the "minor" amendment determination must be received within ten working days of the date of this notice.

### **Amendment Description**

The subject amendment reflects recent changes in State law and more specifically would result in two minor changes to the City's implementing ordinance: 1) identification that if a residential building contains affordable dwelling units within five years of when it is demolished, then those units must be replaced as a part of any new proposed development on the subject site, and 2) extension of the time period that an approved density bonus agreement must remain in effect from 30 to 55 years.

The intent of the amendment request is to make the City's regulation of density bonuses consistent with California Assembly Bill 2222 (Nazarian, 2014) which was signed into law by the Governor in 2014. The Commission previously approved an amendment to the City's LCP at the August 2014 hearing that included more substantive changes to the City's density bonus provisions (LCP-6-CAR-14-0596-2). These changes allowed for density exceptions to the standards already in place in the LCP, provided that these exceptions would not conflict with any resource protection standards contained in the LCP. The proposed changes in the subject amendment would not change how the density bonus provisions already contained within the City's LCP are implemented in relation to coastal resources, and would not result in any new application of bonuses, incentives or waivers as previously certified within the implementing ordinance of the City's LCP.

Therefore, as proposed, the amendment would not result in any impacts to public access or coastal resources. The amendment would not change any underlying zoning or affect the density, intensity, location, or type of use within the City's Coastal Zone, and can be found in conformance with the certified LUP as amended herein.

**RESOLUTION NO. 2015-193**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, APPROVING A LOCAL COASTAL PROGRAM AMENDMENT TO MAKE THE CITY'S REGULATION OF DENSITY BONUSES CONSISTENT WITH STATE LAW.

CASE NAME: DENSITY BONUS AMENDMENT

CASE NO.: LCPA 14-04

The City Council of the City of Carlsbad, California, does hereby resolve as follows:

WHEREAS, pursuant to the provisions of the Municipal Code, the Planning Commission did on May 6, 2015, hold a duly noticed public hearing as prescribed by law to consider the Zone Code Amendment (ZCA 14-02), and Local Coastal Program Amendment (LCPA 14-04), both of which are referenced in Planning Commission Resolution No. 7097; and

WHEREAS, the Planning Commission adopted Planning Commission Resolution No. 7097 recommending to the City Council that ZCA 14-02 and LCPA 14-04 be approved; and

WHEREAS, the City Council of the City of Carlsbad on the 14<sup>th</sup> day of July, 2015 held a duly noticed public hearing to consider the Zone Code Amendment and Local Coastal Program Amendment; and

WHEREAS, at said public hearing, upon hearing and considering all testimony and arguments, if any, of all persons desiring to be heard, the City Council considered all factors related to the Local Coastal Program Amendment.

NOW THEREFORE, BE IT HEREBY RESOLVED by the City Council of the City of Carlsbad, as follows:

1. That the foregoing recitations are true and correct.
2. That the findings of the Planning Commission in Resolution No. 7097 constitute the findings of the City Council in this matter.

**EXHIBIT NO. 1**

APPLICATION NO.

**LCP-6-CAR-15-0024-2****Resolution**

California Coastal Commission

3. That the amendment to the Local Coastal Program (LCPA 14-04), is approved as shown in Planning Commission Resolution No. 7097, on file with the City Clerk and incorporated herein by reference.

4. That the approval of LCPA 14-04 shall not become effective until it is approved by the California Coastal Commission.

"NOTICE TO APPLICANT"

The time within which judicial review of this decision must be sought is governed by Code of Civil Procedure, Section 1094.6, which has been made applicable in the City of Carlsbad by Carlsbad Municipal Code Chapter 1.16. Any petition or other paper seeking review must be filed in the appropriate court not later than the ninetieth day following the date on which this decision becomes final; however, if within ten days after the decision becomes final a request for the record is filed with a deposit in an amount sufficient to cover the estimated cost or preparation of such record, the time within which such petition may be filed in court is extended to not later than the thirtieth day following the date on which the record is either personally delivered or mailed to the party, or his attorney of record, if he has one. A written request for the preparation of the record of the proceedings shall be filed with the City Clerk, City of Carlsbad, 1200 Carlsbad Village Drive, Carlsbad, CA, 92008.

///

///

///

///

///

///

///

///

///

///


///

1 PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council of the City  
2 of Carlsbad on the 14<sup>th</sup> day of July, 2015, by the following vote to wit:

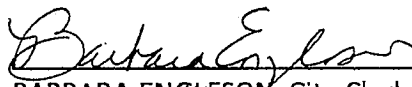
3 AYES: Council Members Hall, Blackburn, Schumacher, Wood, Packard.

4  
5 NOES: None.

6  
7 ABSENT: None.  
8  
9

10  
11   
12 MATT HALL, Mayor

13 ATTEST:

14  
15   
16 BARBARA ENGELSON, City Clerk



**DENSITY BONUS AMENDMENT  
ZCA 14-02/LCPA 14-04  
PROPOSED TEXT CHANGES TO THE ZONING ORDINANCE (TITLE 21)  
SHOWN IN STRIKETHROUGH/UNDERLINE FORMAT**

**AMENDMENTS TO CHAPTER 21.86  
RESIDENTIAL DENSITY BONUS AND INCENTIVES OR CONCESSIONS**

**Section 21.86.040**

21.86.040 Density bonus for housing developments.

A. The decision-making body shall grant one density bonus, as specified in subsection B of this section, and incentives or concessions, as set forth in Section 21.86.050 of this chapter, when an applicant of a housing development of at least five units seeks and agrees to construct at least any one of the following:

1. A minimum of ten percent of the total units of the housing development as restricted and affordable to lower-income households;
2. A minimum of five percent of the total units of the housing development as restricted and affordable to very low-income households;
3. A senior citizen housing development as defined in Section 21.84.030(A)(7) of this title and Section 51.3 of the California Civil Code, or mobile home park that limits residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the California Civil Code; or
4. A minimum of ten percent of the total units in a common interest development restricted and affordable to moderate-income households, provided that all units in the development are offered to the public for purchase.

B. When an applicant seeks and agrees to construct a housing development meeting the criteria specified in subsection A of this section, the decision-making body shall grant a density bonus subject to the following:

1. The amount of density bonus to which a housing development is entitled shall vary according to the amount by which the percentage of affordable housing units exceeds the percentages established in subsection A of this section, as follows:

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

<b>EXHIBIT NO. 2</b>
APPLICATION NO. <b>LCP-6-CAR-15-0024-2</b>
<b>Ordinance</b>
 California Coastal Commission

DENSITY BONUS AMENDMENT (ZCA 14-02/LCPA 14-04)  
PROPOSED TEXT CHANGES TO CARLSBAD MUNICIPAL CODE

Table A  
Density Bonus for Housing Developments with Units Affordable to Low-Income Households

Percentage of Low-Income Units (Minimum 10% required)	Percentage of Density Bonus to be Granted (Additional 1.5% density bonus for each 1% increase above the 10% minimum)
10	20
11	21.5
12	23
13	24.5
14	26
15	27.5
16	29
17	30.5
18	32
19	33.5
20	35

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

Table B  
Density Bonus for Housing Developments with Units Affordable to Very Low-Income Households

Percentage of Very Low-Income Units	Percentage of Density Bonus to be Granted
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35

DENSITY BONUS AMENDMENT (ZCA 14-02/LCPA 14-04)  
PROPOSED TEXT CHANGES TO CARLSBAD MUNICIPAL CODE

c. For housing developments meeting the criteria of subsection (A)(3) of this section, the density bonus shall be twenty percent of the number of senior housing units.

d. For housing developments meeting the criteria of subsection (A)(4) of this section, the density bonus shall be calculated as follows:

Table C  
Density Bonus for Common Interest Developments with Units Affordable to Moderate-  
Income  
Households

Percentage of Moderate-Income Units	Percentage of Density Bonus to be Granted
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

DENSITY BONUS AMENDMENT (ZCA 14-02/LCPA 14-04)  
PROPOSED TEXT CHANGES TO CARLSBAD MUNICIPAL CODE

36	31
37	32
38	33
39	34
40	35

2. The amount of density bonus to which a housing development is entitled shall not exceed thirty-five percent.

3. The applicant may elect to accept a lesser percentage of density bonus than specified in subsection B of this section.

4. If a housing development includes a combination of target dwelling unit types that meet two or more of the criteria specified in subsection A of this section, the applicant shall elect one applicable density bonus.

C. When an applicant for a tentative subdivision map, parcel map, or other housing development approval donates land to the city, in accordance with this subsection, the applicant shall be entitled to a density bonus for the entire development, as follows:

Table D  
Density Bonus for Land Donation

Percentage of Very Low-Income Units	Percentage of Density Bonus to be Granted
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

DENSITY BONUS AMENDMENT (ZCA 14-02/LCPA 14-04)  
PROPOSED TEXT CHANGES TO CARLSBAD MUNICIPAL CODE

25	30
26	31
27	32
28	33
29	34
30	35

1. A density bonus granted pursuant to this subsection shall not exceed thirty-five percent.

2. If an applicant seeks both the density bonus pursuant to this subsection and subsection A of this section, both density bonuses shall be granted up to a maximum combined density bonus of thirty-five percent.

3. An applicant shall be eligible for the density bonus described in this subsection only if all of the following conditions are met:

a. The land is donated and transferred to the city no later than the date of approval of the final subdivision map, parcel map or housing development application.

b. The developable acreage, zoning classification and general plan land use designation of the land being donated are sufficient to permit construction of the units affordable to very low-income households in an amount not less than ten percent of the number of residential units of the proposed development.

c. The transferred land is at least one acre in size or of sufficient size to permit development of at least forty units, and has the appropriate: 1) general plan land use designation; 2) zoning classification with appropriate development standards for development at the density described in paragraph (3) of subdivision (c) of Section 65583.2 of the California Government Code, and 3) is or will be served by adequate public facilities and infrastructure.

d. The transferred land shall have all of the permits and approvals, other than building permits, necessary for the development of the very low-income housing units on the transferred land, not later than the date of approval of the final subdivision map, parcel map, or housing development, except that the city may subject the proposed development to subsequent design review to the extent authorized by subdivision (i) of Section 65583.2 of the California Government Code if the design is not reviewed by the city prior to the time of transfer.

e. The transferred land and the affordable units shall be subject to a deed restriction ensuring continued affordability of the units consistent with Section 21.86.100 of this chapter, which shall be recorded on the property at the time of the transfer.

f. The land is transferred to the city or to a housing developer approved by the city. The city may require the applicant to identify and transfer the land to the developer.

DENSITY BONUS AMENDMENT (ZCA 14-02/LCPA 14-04)  
PROPOSED TEXT CHANGES TO CARLSBAD MUNICIPAL CODE

g. The transferred land shall be within the boundary of the proposed development or, if the city agrees, within one-quarter mile of the boundary of the proposed development.

h. Prior to the approval of the final subdivision map, parcel map or housing development application, the developer shall identify a proposed source of funding for the very low income units.

D. In cases where an applicant requests a density bonus of more than what is specified in this section, the city council may grant the requested additional density bonus, subject to the following:

1. The project meets the requirements of this chapter.
2. The additional density bonus shall be considered an incentive, in accordance with Section 21.86.050 of this chapter.
3. The city council may require some portion of the additional density bonus units to be designated as target dwelling units.

E. The city council may grant a proportionately lower density bonus than what is specified by this section for developments that do not meet the requirements of this chapter.

F. The density bonus dwelling units granted pursuant to this chapter shall not be included when determining the number of housing units required by this chapter to be reserved for income-restricted households.

G. When calculating the density bonus, or the required number of target dwelling units, any calculations resulting in fractional units shall be rounded up to the next whole unit.

H. For the purposes of calculating a density bonus, the residential units shall be on contiguous sites that are the subject of one development application in a housing development, but do not have to be based upon individual subdivision maps or parcels.

I. The density bonus units shall be permitted in geographic areas of the housing development other than the areas where the units for lower-income households are located.

J. A density bonus housing agreement shall be made a condition of the discretionary permits (i.e., tentative maps, parcel maps, planned unit developments, condominium permits, site development plans and redevelopment permits) for all housing developments that request a density bonus and incentives or concessions. The relevant terms and conditions of the density bonus housing agreement shall be filed and recorded as a deed restriction on those individual lots or units of a project development which are designated for the location of target dwelling units. The density bonus housing agreement shall be consistent with Section 21.86.130 of this chapter.

K. An applicant shall be ineligible for a density bonus or any other incentives or concessions under this chapter if the housing development is proposed on any property that includes a parcel or parcels on which rental dwelling units are or, if rental dwelling units have been vacated or demolished in the five-year period preceding the application, have been subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and

DENSITY BONUS AMENDMENT (ZCA 14-02/LCPA 14-04)  
PROPOSED TEXT CHANGES TO CARLSBAD MUNICIPAL CODE

families of lower- or very low-income; subject to any other form of rent or price control through the city's valid exercise of its police power; or occupied by lower- or very low-income households, unless the proposed housing development replaces those units, and either of the following applies:

1. The proposed housing development, inclusive of the units replaced pursuant to this subsection, contains affordable units at the percentages set forth in Section 21.86.040 of this chapter.

2. Each unit in the development, exclusive of a manager's unit or units, is affordable to and occupied by either a lower- or very low-income household.

3. For the purposes of this subsection, "replaces" shall mean either of the following:

i. If any rental dwelling unit(s) is occupied on the date of application, the proposed housing development shall provide at least the same number of units of equivalent size or type, or both, to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those households in occupancy. For unoccupied dwelling units in a development with occupied units, the proposed housing development shall provide units of equivalent size or type, or both, to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category in the same proportion of affordability as the occupied units. The replacement units shall be subject to the affordability tenure requirements specified in Section 21.86.100.

ii. ~~If all rental dwelling units have been vacated or demolished within the five-year period preceding the application, the proposed housing development shall provide at least the same number of units of equivalent size or type, or both, as existed at the highpoint of those units (in the five-year period preceding the application). The replacement units shall be provided at an affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those persons and families in occupancy at the highpoint, if known. If the incomes of the persons and families in occupancy at the highpoint is not known, then one-half of the required units shall be made available at affordable rent or affordable housing cost to, and occupied by, very low-income persons and families and one-half of the required units shall be made available for rent at affordable housing costs to, and occupied by, low-income persons and families. The replacement units shall be subject to the affordability tenure requirements specified in Section 21.86.100.~~

**Section 21.86.050**

21.86.050 Incentives and concessions for housing developments.

A. When an applicant requests a density bonus pursuant to Section 21.86.040(A) of this chapter, the decision-making body shall grant incentives or concessions, subject to the following:

DENSITY BONUS AMENDMENT (ZCA 14-02/LCPA 14-04)  
PROPOSED TEXT CHANGES TO CARLSBAD MUNICIPAL CODE

1. An applicant shall submit a proposal for any specific incentives or concessions requested pursuant to this section.

2. The decision-making body shall grant the incentive(s) or concession(s) requested by the applicant unless, based upon substantial evidence, any of the following findings are made in writing:

a. The incentive or concession is not required in order to provide for affordable housing as defined in Section 21.86.020(A)(1) of this chapter.

b. The incentive or concession would have 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 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. As used in this paragraph, and as defined in paragraph (2) of subdivision (d) of Section 65589.5 of the California Government Code, a "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 the application was deemed complete.

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

3. The applicant shall receive the following number of incentives or concessions:

a. One incentive or concession for projects that include at least ten percent of the total units for lower-income households, at least five percent for very low-income households, or at least ten percent for persons and families of moderate income in a common interest development.

b. Two incentives or concessions for projects that include at least twenty percent of the total units for lower-income households, at least ten percent for very low-income households, or at least twenty percent for persons and families of moderate income in a common interest development.

c. Three incentives or concessions for projects that include at least thirty percent of the total units for lower-income households, at least fifteen percent for very low-income households, or at least thirty percent for persons and families of moderate income in a common interest development.

4. An incentive or concession may include any of the following:

a. A reduction in site development standards or a modification of zoning code or architectural design requirements (excluding State Building Standards), that results in identifiable, financially sufficient and actual cost reductions. A reduction/modification to standards or requirements may include, but is not limited to, a reduction in minimum lot size, setback requirements, and/or in the ratio of vehicular parking spaces that would otherwise be required.

DENSITY BONUS AMENDMENT (ZCA 14-02/LCPA 14-04)  
PROPOSED TEXT CHANGES TO CARLSBAD MUNICIPAL CODE

b. Approval of mixed use zoning in conjunction with the housing development if: i) commercial, office, industrial or other land uses will reduce the cost of the housing development; and ii) the commercial, office, industrial, or other land uses are compatible with the housing development and the existing or planned future development in the area where the proposed project will be located.

c. Other regulatory incentives or concessions that result in identifiable, financially sufficient and actual cost reductions.

d. The city council may, but is not required to, provide direct financial incentives, including the provision of publicly owned land, or the waiver of fees or dedication requirements.

5. The applicant shall show that the requested incentive(s) or concession(s) will result in identifiable, financially sufficient, and actual cost reductions.

---

**Section 21.86.070**

21.86.070 Density bonus and incentives for condominium conversions.

A. When an applicant proposes to convert apartments to condominiums, the decision-making body shall grant either a density bonus or other incentives of equivalent financial value, as set forth in Section 21.86.050(A) of this chapter, if the applicant agrees to provide the following:

1. A minimum of thirty-three percent of the total units of the proposed condominium conversion project as restricted and affordable to low-income or moderate-income households; or

2. A minimum of fifteen percent of the total units of the proposed condominium conversion project as restricted and affordable to lower-income households.

B. For purposes of this section "density bonus" means an increase in units of twenty-five percent over the number of apartments, to be provided within the existing structure or structures proposed for conversion.

C. For purposes of this section, "other incentives of equivalent financial value" shall not be construed to require the city to provide monetary compensation, but may include the waiver or reduction of requirements that might otherwise apply to the proposed condominium conversion project.

D. The density bonus dwelling units shall not be included when determining the number of housing units required to be reserved for income-restricted households.

E. When calculating the density bonus, or the required number of target dwelling units, any calculations resulting in fractional units shall be rounded up to the next whole unit.

F. Nothing in this section shall be construed to require that the city approve a proposal to convert apartments to condominiums.

DENSITY BONUS AMENDMENT (ZCA 14-02/LCPA 14-04)  
PROPOSED TEXT CHANGES TO CARLSBAD MUNICIPAL CODE

G. An applicant/developer proposing to convert apartments to condominiums shall be ineligible for a density bonus or other incentives under this section if the apartments proposed for conversion constitute a housing development for which a density bonus or other incentives were provided under Sections 21.86.040 and 21.86.050 of this chapter.

H. A density bonus housing agreement shall be made a condition of the discretionary permits (tentative maps, parcel maps, planned unit developments and condominium permits) for all condominium conversion proposals that request a density bonus or other incentives. The relevant terms and conditions of the density bonus housing agreement shall be filed and recorded as a deed restriction on those individual lots or units of a project development which are designated for the location of target dwelling units. The density bonus housing agreement shall be consistent with Section 21.86.130 of this chapter.

I. An applicant shall be ineligible for a density bonus or any other incentives or concessions under this chapter if the condominium project is proposed on any property that includes a parcel or parcels on which rental dwelling units are or, if rental dwelling units have been vacated or demolished in the five-year period preceding the application, have been subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of lower or very low income; subject to any other form of rent or price control through the city's valid exercise of its police power; or occupied by lower- or very low-income households, unless the proposed condominium project replaces those units, as defined in Section 21.86.040.K.3 of this chapter, and either of the following applies:

1. The proposed condominium project, inclusive of the units replaced pursuant to Section 21.86.040.K.3 of this chapter, contains affordable units at the percentages set forth in Section 21.86.070.A.

2. Each unit in the development, exclusive of a manager's unit or units, is affordable to, and occupied by, either a lower or very low income household.

---

**Section 21.86.100**

21.86.100      Affordability tenure.

A. All low- and very low-income rental dwelling units that qualified the housing project for a density bonus shall remain restricted and affordable to the designated group for a period of at least thirty-five years, or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program. Rents for the target dwelling unit(s) shall be set at an affordable rent as defined in Section 50053 of the Health and Safety Code.

B. All very low-, low- and moderate-income for-sale dwelling units that qualified the housing project for directly related to the receipt of a density bonus for a common interest development shall be subject to the following:

1. The initial occupant(s) of the target dwelling unit(s) shall be persons and families of very low, low or moderate income, as required, and the units shall be offered at an affordable housing cost that does not exceed the allowable housing expenses for a moderate-income household as defined in Section 50052.5 of the Health and Safety Code.

DENSITY BONUS AMENDMENT (ZCA 14-02/LCPA 14-04)  
PROPOSED TEXT CHANGES TO CARLSBAD MUNICIPAL CODE

2. Unless in conflict with the requirements of another public funding source or law, the target dwelling unit(s) shall be subject to an equity sharing agreement that specifies:

a. Upon resale, the seller of the unit shall retain the value of any improvements, the down payment, and the seller's proportionate share of appreciation.

b. Upon resale, the city shall recapture any initial subsidy and its proportionate share of appreciation, which shall then be used within five years for any of the purposes described in subdivision (e) of Section 33334.2 of the Health and Safety Code that promote homeownership.

i. For the purposes of this subsection, the city's initial subsidy shall be equal to the fair market value of the home at the time of initial sale minus the initial sale price to the moderate-income household, plus the amount of any downpayment assistance or mortgage assistance. If upon resale the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value.

ii. For the purposes of this subsection, the city's proportionate share of appreciation shall be equal to the ratio of the city's initial subsidy to the fair market value of the home at the time of initial sale.

3. If the city provides a direct financial contribution to ~~a common interest~~ the housing development through participation in cost of infrastructure, write-down of land costs, or subsidizing the cost of construction, the target dwelling unit(s) shall remain affordable to the designated income group for at least thirty years.

C. For rental projects, the city or its designee shall have a one-time first right of refusal to purchase any project containing affordable units offered for sale at the end of the minimum tenure of affordability. The first right of refusal to purchase the rental project shall be submitted in writing to the housing and neighborhood services director. Within ninety days of its receipt, the city shall indicate its intent to exercise the first right of refusal for the purpose of providing affordable housing.

---

**Section 21.86.110**

21.86.110      Application process.

A. The granting of a density bonus, incentive or concession, pursuant to this chapter, shall not be interpreted, in and of itself, to require a general plan amendment, zone code amendment, local coastal plan amendment, zone change, ~~or other discretionary approval,~~ or the waiver of a city ordinance or provisions of a city ordinance unrelated to development standards.

B. Preliminary Application. A preliminary application may be submitted prior to the submittal of any formal development application for a housing project that includes a request for a density bonus, incentive(s) or concession(s). The preliminary application should include the following information:

DENSITY BONUS AMENDMENT (ZCA 14-02/LCPA 14-04)  
PROPOSED TEXT CHANGES TO CARLSBAD MUNICIPAL CODE

1. A brief description of the proposal including the number of target dwelling units and density bonus units proposed;
2. The zoning, general plan designations and assessors parcel number(s) of the project site;
3. A site plan, drawn to scale, which includes: building footprints, driveway and parking layout, existing contours and proposed grading;
4. A letter identifying what specific density bonus, incentives or concessions (e.g., standards modifications, additional density bonus, or fee waiver, etc.) are being requested of the city; and
5. The planning division shall provide to an applicant/developer, a letter that identifies project issues of concern and the procedures for compliance with this chapter.

C. Formal Application. A request for a density bonus, incentive(s) or concession(s), pursuant to this chapter, does not require a discretionary approval. The request shall be processed as part of the development applications for a housing development, as otherwise required in other sections of this code (e.g., site development plan, tentative map, parcel map, planned unit development, conditional use permit, redevelopment permit, etc.).

1. If the project involves a request for direct financial incentives from the city, then any action by the planning commission on the application shall be advisory only, and the city council shall have the authority to make the final decision on any discretionary permits related to the project.

2. The following information shall be included with the development application(s) required for the project:

- a. A legal description of the total site proposed for development of the target dwelling units including a statement of present ownership and present and proposed zoning;

- b. A letter signed by the present owner stating what specific density bonus, incentives, or concessions (e.g., standards modifications, additional density bonus, or fee waiver, etc.) are being requested from the city;

- c. A detailed vicinity map showing the project location and such details as the location of the nearest commercial retail, transit stop, potential employment locations, park or recreation facilities or other social or community service facilities;

- d. Site plans, designating the total number of units proposed on the site, including the number and location of target dwelling units and density bonus dwelling units, and supporting plans per the application submittal requirements;

- e. In the case of a request for any incentive(s) or concession(s), a pro forma for the proposed project to justify the request, in accordance with the provisions of Section 21.86.050 of this chapter;

DENSITY BONUS AMENDMENT (ZCA 14-02/LCPA 14-04)  
PROPOSED TEXT CHANGES TO CARLSBAD MUNICIPAL CODE

f. In the case of a request for a waiver or reduction of development standards, pursuant to Section 21.86.060 of this chapter, evidence that the development standard being waived or reduced will have the effect of physically precluding the construction of the development at the densities or with the concessions or incentives permitted by this chapter;

g. In the case of a condominium conversion request, a report documenting the following information for each unit proposed to be converted:

i. The monthly income of tenants of each unit throughout the prior year,

and ii. The monthly rent for each unit throughout the prior year,

iii. Vacancy information for each unit throughout the prior year.

---