

CALIFORNIA COASTAL COMMISSION

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F9a

ADDENDUM

April 11, 2024

TO: Coastal Commissioners and Interested Parties

FROM: South Coast District Staff

SUBJECT: **ADDENDUM TO ITEM F9a, APPLICATION NO. LCP-5-NPB-22-0056-1 (Part A: Density Bonus) FOR THE COMMISSION MEETING OF FRIDAY, APRIL 12, 2024.**

This addendum is designed to update the record by supplementing it in response to correspondence that the Commission received after the staff report was published, as well as provide corrections, clarifications, and changes to the suggested modifications to the staff report for Item F9a. The changes to the suggested modifications have been developed in cooperation with the City of Newport Beach, which supports these changes.

I. CORRESPONDENCE RECEIVED AND RESPONSES

On April 3, 2024, the Commission received an email from Jim Mosher identifying his concerns with the City of Newport Beach LCP Amendment regarding Density Bonus Law. Much of Mr. Mosher's concerns center around typographical errors and inconsistencies within the new Density Bonus Chapter in the IP and elsewhere in the IP.

On April 4, 2024, the Commission received an email from Chris Pederson identifying his concerns with the proposed City of Newport Beach LCP Amendment. Mr. Pederson's concern deals with the LCP Amendment's allowance of density bonus projects and whether such allowances might conflict with coastal resource protections. Under the New Density Bonus Chapter in the IP (Chapter 21.32), density bonus projects must still comply with coastal resources protection standards of the LCP. Mr. Pederson is concerned that could be interpreted as allowing the city to deny any density bonuses, incentives, concessions, or waivers if they are inconsistent with any LCP requirement, even if in the context of a particular project the LCP requirement isn't necessary for protecting a coastal resource.

Commission staff responds to comments received as indicated below and recommends that the Commission incorporate these responses into its findings as a new section entitled **C. CORRESPONDENCE RECEIVED AND RESPONSE TO COMMENTS** at the end of the staff report. This would result in re-lettering the CEQA section to **D. CALIFORNIA**

ENVIRONMENTAL QUALITY ACT (CEQA). Commission staff hereby revises its recommended findings to incorporate these responses, so that adoption of the staff recommendation will include adoption of these findings.

Response to Mr. Mosher’s Concerns

Mr. Mosher’s concerns center around typographical errors, erroneous internal cross-references, and other inconsistencies within the new Density Bonus Chapter in the IP and elsewhere in the IP. The City reviewed Mr. Mosher’s concerns and his proposals to correct the issues he raised, and in response, the City generally agreed with his corrections and modifications. As such, these corrections and modifications have been incorporated into the Suggested Modifications, which have been updated with this addendum.

Response to Mr. Pederson’s Concerns

Pursuant to the New Density Bonus Chapter in the IP (Chapter 21.32), projects involving a density bonus component must still comply with coastal resources protection standards of the LCP. By requiring this, Mr. Pederson was concerned that a project might be denied if the project is inconsistent with any LCP requirement, even if in the context of a particular project the LCP requirement isn’t necessary for protecting a coastal resource. In response to this concern, Commission staff discussed with Mr. Pederson how the LCP Amendment does include language that clarifies that projects that are not inconsistent with coastal resource protection standards can be granted density bonuses, concessions, incentives and waivers pursuant to Section 21.32.030 of the new proposed Density Bonus chapter in the IP. Per this discussion, Mr. Pederson withdrew his initial concerns regarding this topic. However, during this discourse, Mr. Pederson identified a lingering concern associated with his initial concern, and that was in regard to parking. More specifically, Mr. Pederson’s concern is that Chapter 21.30A.050.E of the IP requires compliance with off-street parking standards in Chapter 21.40 of the IP, and that there’s no explicit exception from parking requirements in those chapters for DBL projects that will not affect public access. In response to this final concern, a suggested modification has been proposed to Chapter 21.30A.050(E) that states that modifications to the off-street parking space requirement standards may be permitted pursuant to the new Chapter 21.32 (Density Bonus) where reduced parking requirements would not significantly impact public access to the shoreline. The City agreed with this change and Mr. Pederson indicated his appreciation of it as well.

II. CHANGES TO STAFF REPORT

The proposed changes clarify and modify the suggested modifications. Language to be added is shown in **bold underlined text**, and language to be deleted is identified by ~~strike out~~.

Page 2 – Modify the second to last paragraph as follows:

~~**Suggested Modification No. 1** cross references the State DBL and deletes the more comprehensive, originally proposed language, as requested by the City of Newport Beach.~~
~~**Suggested Modification No. 2** clarifies that a GDP review process for a density bonus component exists that is protective of coastal resources.~~
The Suggested Modifications, which are shown in Appendix A (in strikethrough/underline) and Appendix B (in clean type) cross reference the State DBL; delete the more comprehensive,

originally proposed language, as requested by the City; clarify that a CDP review process for a density bonus component exists that protects coastal resources; and make other clarifying changes.

Page 7 – Modify Section III. Suggested Modifications, as follows:

The Commission hereby suggests the following modifications to the proposed LCP Amendment, which are necessary to make the requisite Coastal Land Use Plan (LUP) consistency findings. If the City of Newport Beach accepts the suggested modifications within six months of Commission action (i.e., by October 12, 2024), by formal resolution of the City Council, the modified amendment will become effective upon Commission concurrence with the Executive Director’s finding that this acceptance has been properly accomplished. ~~If The City of Newport Beach accepts the suggested modifications within six months of Commission action (i.e., by October 12, 2024), by formal resolution of the Board of Supervisors, the modified amendment will become effective upon Commission concurrence with the Executive Director’s finding that this acceptance has been properly accomplished.~~

Page 7 – Modify Section III. Suggested Modifications as follows:

For the suggested modifications, see Appendix A: Suggested Modifications.

**~~1. Suggested Modification No. 1: Modify Chapter 21.32 Density Bonus as follows:
See [Appendix A](#)~~**

~~Changes to proposed language are shown in bold underline and strike-out.~~

~~2. Suggested Modification No. 2: Modify Chapter 21.32 Density Bonus as follows:~~

~~Changes to proposed language are shown in bold double underline and strike-out.~~

21.32.02025 Coastal Act Consistency

A. ~~California Government Code Section 69515(m) provides that density bonus law shall not be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976. Any density bonus, concessions, incentives, waivers or reductions of development standards, and parking ratios to which the applicant is entitled under California State Government Code § 65915 et. seq., shall be permitted in a manner that is consistent with that section and the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code).~~

21.32.040150 Approval Process.

~~An applicant requesting a density bonus, incentive, concession, or waiver pursuant to this chapter shall require approval of an Affordable Housing Implementation Plan pursuant to Sections 20.50.030 and 20.52.015 and a coastal development permit pursuant to Chapter 21.52 (Coastal Development Review Procedures).~~

Page 8 – Modify Section IV. Findings/A. Amendment Description & Location, as follows:

A. AMENDMENT DESCRIPTION & LOCATION

The subject LCP Amendment, LCP-5-NPB-22-56-1 (Part A), would amend the IP (Title 21 of the City’s Municipal Code) of the City’s certified LCP to incorporate standards and establish an approval process for considering density bonuses with housing development projects. This LCP Amendment would add a new chapter (Chapter 21.2332) to Title 21 of the (IP), clearly establishing the regulations for density bonuses in the Coastal Zone. Of note, the proposed amendment would not allow any development approved under this Chapter to be inconsistent with the coastal resource protection policies of the certified IP Sections 21.28.040 (Bluff (B) Overlay District), 21.28.050 (Canyon (C) Overlay District), 21.2830.015(D)(Waterfront Development), 21.30.015(E)(2) (Development in Shoreline Hazardous Areas) and 21.30.100 (Scenic and Visual Quality Protection), or Chapters 21.30A (Public Access and Recreation) and Chapter 21.30B (Habitat Protection). For any density bonus, concessions, incentives, waivers or reductions of development standards, and parking ratios to which the applicant is entitled under California State Government Code Section 65915 et. seq., they shall only be permitted in a manner that is consistent with that section and the Coastal Act. This LCP Amendment is required to ensure that City’s regulations comply with the State’s DBL, Government Code Sections 65915 – 65918. ~~Currently, the certified IP is silent with respect to density bonuses. The City’s Municipal Code Chapter 20.32 (Density Bonus) of Title 20 (Planning and Zoning), both of which are not part of the certified LCP, which was last updated in 2010, is out of date with the state’s current DBL.~~

Pages 10-11 – Modify Section IV. Findings/B. Evaluation of Proposed LCP Amendment, as follows:

As described above, the proposed LCP Amendment would add a new chapter to the IP that would allow density bonuses associated with housing development projects in the Coastal Zone. The City had initially submitted comprehensive language to incorporate standards and establish an approval process for considering ~~allow~~ density bonuses associated with housing development projects in the Coastal Zone. However, as detailed above, the City subsequently requested a modification to remove most of its proposed density bonus language because the proposed language was rendered out of date with new DBL changes that went into effect on January 1, 2024. The City’s rationale for this suggested modification is that a broad cross reference to state DBL would keep up with the ongoing changes to the DBL by the State Legislature, while avoiding the need to regularly update the LCP with new DBL language.

The proposed LCP Amendment included language requiring consistency of any proposed density bonus concessions, incentives, waivers or reductions of development standards, and parking ratios project with the coastal resource protection requirements of the certified LCP. As submitted, the proposed amendment also stated that applicants for DBL projects must obtain an Affordable Housing Implementation Plan pursuant to Sections 20.50.030 and 20.52.015 of the IP Municipal Code, which are uncertified provisions that provide a process for reviewing DBL submittals. However, the proposed amendment did not explicitly state that applicants would also still need to obtain a coastal development permit (CDP). As submitted, the Amendment therefore was not sufficient to ensure conformity with the CLUP, as it was not clear that DBL project applicants would have to obtain a CDP

in addition to an Affordable Housing Implementation Plan, and would therefore have to use that process to ensure consistency with relevant resource protection standards of the LCP.

The ~~two modifications~~ **proposed modifications** will ensure that the DBL law will be carried out in a manner that conforms with, and is adequate to carry out, the CLUP.

~~Suggested Modification No. 1~~ clarifies **The suggested modifications will clarify** that the City's new IP Density Bonus Chapter will cross reference the State DBL and will delete the City's originally proposed language, as requested by the City. This will help ensure that the LCP's language will not become out-of-date due to frequent updates to DBL by the state Legislature and the time and effort it takes to make corresponding updates to the LCP. This, in turn, will help provide more clarity for applicants, foster affordable housing, and carry out the mandate that qualifying housing projects comply with both the DBL and Coastal Act. It will also promote consistency with CLUP Policies such as 2.7.2. and 2.2.1-1, which call for appropriate infill and low- and moderate-income development to be built consistent with the resource protection policies of the LCP. ~~Suggested Modification No. 2~~ clarifies **The suggested modifications will also clarify** that applicants for DBL projects will need to still apply for a CDP, which in turn will require the City to undertake an analysis of whether the project will comply with relevant resource protection standards of the LCP. This modification is needed to ensure that applicants clearly understand that they must obtain a CDP **or CDP waiver** and comply with relevant LCP resource protection standards in addition to getting approval of any **other authorization required under local, state, or federal law**~~Affordable Housing Implementation Plan~~. **Another suggested modification will specifically clarify that any waivers from off-street parking requirements are allowed pursuant to Chapter 21.32 so long as they do not significantly impact public access to the shoreline. Other suggested modifications will correct typographical errors and inconsistencies within the new proposed Density Bonus Chapter in the IP (Chapter 21.32) and elsewhere in the IP.**

Pages 14-21 – Modify Appendix A: Suggested Modification No. 01, as follows:

The current Appendix A: Suggested Modification No. 01 will be deleted entirely and replaced with the following revised Appendix A: Suggested Modifications.

Changes to proposed language are shown in **bold underline** and ~~strike-out~~.

APPENDIX A: Suggested Modifications No. 01

Bold Underline/~~Strikeout~~ Version of Title 21 (Local Coastal Program Implementation Plan) Revisions

Local Coastal Program Amendment No. LC2020-004

Section 1: Subsection (C)(1) of Section 21.12.020 (Rules of Interpretation) of Chapter 21.12 (Interpretation of Implementation Plan Provisions) of Title 21 (Local Coastal Program Implementation Plan) of the NBMC is hereby amended to read as follows:

C. Calculations.

1. Residential Density. ~~When~~ **Except for projects that include a density bonus in accordance with Chapter 21.32, when** the number of dwelling units allowed on a site is calculated based on the minimum site area per dwelling unit, any fraction of a unit shall be rounded down to the next lowest whole number. For example, where a residential zoning district requires a minimum site area per dwelling unit of one thousand five hundred (1,500) square feet; a site of ten thousand (10,000) square feet would be allowed six **(6)** dwelling units **(10,000 sq. ft./1,500 sq. ft. per dwelling unit = 6.66 dwelling units, which is rounded down to six (6) dwelling units).**

~~Example: Ten thousand (10,000) sq. ft. site area/one thousand five hundred (1,500) sq. ft. per unit = 6.66 dwelling units. This would be rounded down to six dwelling units.~~

Section 2: Chapter 21.32 (Density Bonus) of Title 21 (Interpretation of Implementation Plan Provisions) of the NBMC is hereby added to read as follows:

Chapter 21.32
DENSITY BONUS

Sections:

- 21.32.010 Purpose.**
- 21.32.020 Coastal Act Consistency**
- 21.32.030 Density Bonus, Concessions, Incentives, and Waivers**
- 21.32.040 Approval Process**
- ~~**21.32.020 Definitions.**~~
- ~~**21.32.025 Coastal Act Consistency.**~~
- ~~**21.32.030 Eligibility for Density Bonus and Incentives.**~~
- ~~**21.32.040 General Requirements.**~~
- ~~**21.32.050 Allowed Density Bonuses.**~~
- ~~**21.32.060 Parking Requirements in Density Bonus Projects.**~~
- ~~**21.32.070 Allowed Incentives or Concessions.**~~
- ~~**21.32.080 Waivers or Reductions of Development Standards.**~~
- ~~**21.32.090 Incentives for Housing with Childcare Facilities.**~~
- ~~**21.32.100 Condominium Conversions.**~~
- ~~**21.32.110 Design and Distribution of Affordable Units.**~~
- ~~**21.32.121 Replacement Units.**~~
- ~~**21.32.130 Continued Availability.**~~
- ~~**21.32.140 Occupancy and Resale of Ownership Units.**~~
- ~~**21.32.150 Approval Process.**~~
- ~~**21.32.160 Affordable Housing Agreement.**~~

21.32.010 Purpose.

The purpose of this chapter is to provide a means for granting density bonuses and incentives in compliance with State Density Bonus Law, not intended to expand the requirements of Government Code Section 65915 et seq. through 65918, as the same may be amended from time to time., but rather to provide a means for granting density bonuses and incentives as required by state law. This chapter provides regulations for considering density bonus and incentive requests for the development of housing that is

affordable to extremely low-, very low-, low-, and moderate-income households, foster youth, disabled veterans, homeless persons, lower income students, senior citizens, and childcare.

21.32.020 Definitions.

As used in this chapter, the following words shall have the following meanings:

- A. “Affordable housing” means housing for which the allowable housing expenses paid by a qualifying household shall not exceed a specified fraction of the county median income, adjusted for household size. This includes housing designated for extremely low-, very low-, low-, and moderate-income households.
- B. “Childcare facility” means a child day care facility, other than a family day care home, including, but not limited to, infant centers, preschools, extended day care facilities, and school-age childcare center. “Childcare facility” does not include public or private primary or secondary education facilities.
- C. “Condominium conversion” means the conversion of apartments, or other rental units, into ownership property that consist of an undivided interest in common in a portion of real property coupled with a separate interest within the boundaries of the dwelling unit.
- D. “Density bonus” means a density increase over the maximum allowable residential density under applicable zoning and Land Use Element of the General Plan as of the date of application.
- E. “Development standard” means a site or construction condition, including, but not limited to, a height limitation, setback requirement, floor area ratio, an onsite open-space requirement, or a parking ratio that applies to a housing development pursuant to any ordinance, General Plan policy, specific plan, or other local condition, law, policy, resolution, or regulation. Development standard shall not mean an impact fee, inclusionary housing requirement, or dedication of land.
- F. “Disabled veteran” means any veteran who is currently declared by the United States Veterans Administration to be ten (10) percent or more disabled as a result of service in the armed forces. Proof of such disability shall be deemed conclusive if it is of record in the United States Veterans Administration.
- G. “Equivalent financial value” means an incentive that would result in a reduction in cost to the developer/property owner based upon the land cost per dwelling unit and shall be calculated based upon the difference in the value of the land with and without the density bonus.
- H. “Equivalent size” means that the replacement units specified in Section 21.32.120 contain at least the same total number of bedrooms as the units being replaced.
- I. “Foster youth” means a person in California whose dependency was established or continued by a court of competent jurisdiction, including a tribal court, on or after the youth’s 13th birthday and who is no older than 25 years of age at the commencement of the academic year.
- J. “Homeless person” shall have the same meaning as that phrase is defined in Section 11302 of the federal McKinney-Vento Homeless Assistance Act (42U.S.C. Ch. 119).

- K. “Housing development” means a development project for five (5) or more residential dwelling units, including mixed-use developments, subdivisions, or common interest development. A “housing development” may consist of residential units, unimproved residential lots, 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 result in a net increase in available residential units. For purposes of calculating a density bonus, the residential units shall be on contiguous sites that are the subject of one (1) development application but may include more than one subdivision map.
- L. “Lower income student” means a student who has a household income and asset level that does not exceed the level for Cal Grant A or Cal Grant B award recipients as set forth Education Code Section 69432.7(k)(1). 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.
- M. “Major transit stop” means a site containing an existing rail transit station or the intersection of two (2) or more major bus routes with a frequency of service interval of fifteen (15) minutes or less at the intersection of the two (2) routes during both the morning and afternoon peak commute hours.
- N. “Natural or constructed impediments” means a hindrance or obstruction that prevents pedestrian or bicycle access to a major transit stop. Natural or constructed impediments include, but are not limited to, freeways, rivers, mountains, harbors, and bodies of water, but does not include residential structures, shopping centers, parking lots, or rails used for transit.
- O. “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. The following shall not constitute a specific, adverse impact upon the public health or safety: (1) inconsistency with the zoning or General Plan land use designation, or (2) the eligibility to claim a welfare exemption under subdivision (g) of Section 214 of the Revenue and Taxation Code.
- P. “Unobstructed access” means that the income qualified resident of the housing development is able to walk or bike to from the residence without trespassing or otherwise encountering natural or constructed impediments.

21.32.02025 Coastal Act Consistency

- A. California Government Code Section 69515(m) provides that density bonus law shall not be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976. Any density bonus, concessions, incentives, waivers or reductions of development standards, and parking ratios to which the applicant is entitled under California State Government Code § Section 65915 et. seq., shall be permitted in a manner that is consistent with that section**

and the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code).

B. A requested density bonus and any requested incentive, concession, waiver, modification, or modified parking standard shall comply with all applicable standards and use regulations of the certified Local Coastal Program Implementation Plan, with the exception of the development standards waived, reduced, or modified through density bonus provisions. In no case shall the coastal resource protection development regulations of Sections 21.28.040 (Bluff (B) Overlay District), 21.28.050 (Canyon (C) Overlay District), 21.30.015(D)(Waterfront Development), 21.30.015(E)(2) (Development in Shoreline Hazardous Areas) and 21.30.100 (Scenic and Visual Quality Protection), or Chapters 21.30A (Public Access and Recreation) and 21.30B (Habitat Protection) be waived, reduced, or modified.

21.32.030 Density Bonuses, Concessions, Incentives, and Waivers

Unless restricted by Section 21.32.020, eligible housing development or mixed-use development projects may be granted density bonuses, concessions, incentives, and waivers pursuant to California State Government Code § Section 65915 et. seq., which may be amended from time to time.

21.32.030 Eligibility for Density Bonus and Incentives:

- A. To be eligible for a density bonus, incentive(s) or concession(s), or waiver or reduction of development standard(s) as provided by this chapter, a housing development or condominium conversion shall include only one (1) of the following requirements and satisfy all other applicable provisions of this Local Coastal Program Implementation Plan.
1. A minimum of five (5) percent of the total number of units of a housing development shall be restricted and affordable to very low-income households.
 2. A minimum of ten (10) percent of the total number of units of a housing development shall be restricted and affordable to low-income households.
 3. A minimum of ten (10) percent of the total units in a for-sale housing development shall be restricted and affordable to moderate-income households provided that all units in the housing development are offered to the public for purchase.
 4. One hundred (100) percent of all units in a housing development, exclusive of a manager's unit or units shall be restricted and affordable to lower-income households, except that no more than twenty (20) percent of the units in the housing development, including total units and density bonus units, may be affordable to moderate-income households.
 5. A minimum of ten (10) percent of the total units of a housing development for transitional foster youth, disabled veterans, or homeless persons shall be provided at the same affordability level as very low-income units.
 6. A minimum of twenty (20) percent of the total units of a housing development shall be affordable to lower-income college students.

7. A condominium conversion project where either thirty-three (33) percent of the units converted are affordable to low- or moderate-income households, or fifteen (15) percent of the units converted are affordable to very low- or extremely low-income households.
 8. A senior citizen housing development, as defined in Civil Code Sections 51.3 and 51.12, that has at least thirty-five (35) dwelling units or a mobile home park that limits residency based on age requirements for housing older persons in compliance with Civil Code Sections 798.76 or 799.5.
 9. The applicant for a housing development donates at least one (1) acre of land to the City for very low-income units, provided the land has the appropriate General Plan designation, zoning, permits and approvals, and access to public facilities needed for such housing.
- B. Housing Development Not Eligible for a Density Bonus, Concession, Incentive, or Waiver. A housing development shall not be eligible for a density bonus, or any incentive, concession, or waiver of a development standard under this chapter on a parcel containing existing affordable housing unless:
2. The housing development replaces the existing affordable units in accordance with all of the requirements set forth in Section 21.32.120; and
 3. The housing development, inclusive of the units replaced pursuant to this section, contains affordable units at one (1) of the percentage levels set forth in Section 21.32.030(A).

21.32.040 General Requirements.

- A. Fractional Units. The calculation of a density bonus in compliance with this section that results in fractional units, including base density and bonus density, shall be rounded up to the next whole number.
- B. Mixed Income Development. If a housing development qualifies for a density bonus under more than one (1) income category; as senior housing; or as housing intended to serve transitional foster youth, disabled veterans, or homeless persons; the applicant shall select only one (1) of the above categories in the application. Density bonuses from more than one (1) category may not be combined.
- C. General Plan & Zoning Consistency. The granting of a density bonus, in and of itself, shall not be interpreted as requiring a General Plan amendment, Zoning Map amendment, or other discretionary approval.
- D. Financial Incentives. The provisions of this chapter shall not be interpreted to require or limit the City from providing direct financial incentives, including the provision of publicly owned land or the waiver of fees or dedication requirements.
- E. Increased Density Limit. A housing development shall not exceed the cumulative total of base units allowed by the underlying zone and the density bonus units allowed by Section 21.32.050. Incentives, concessions, or development standard waivers shall not be used to increase density.

F. Reduced Density. An applicant for a density bonus may elect to provide a lesser percentage of density increase than what is authorized by Section 21.32.050 including, but not limited to, no increase in density, but shall remain eligible for concessions or incentives, waivers of development standards, and eligible parking requirements provided the project meets the eligibility requirements of this section.

21.32.050 Allowed Density Bonuses.

A housing development that meets one (1) of the eligibility levels in Section 21.32.030 is entitled to a density bonus as provided herein.

A. Density Bonus for Very Low-, Low-, and Moderate-Income Households. A housing development that is eligible for a density bonus pursuant to Section 21.32.030(A)(1) through Section 21.32.030(A)(4) is entitled to a density bonus calculated as follows:

TABLE 21.32-1

VERY-LOW, LOW, AND MODERATE

<u>Percentage of Base Units Proposed</u>	<u>Density Bonus Percentage</u>		
	<u>Very-Low Income</u>	<u>Low Income</u>	<u>Moderate Income</u>
<u>5%</u>	<u>20%</u>	<u>-</u>	<u>-</u>
<u>6%</u>	<u>22.5%</u>	<u>-</u>	<u>-</u>
<u>7%</u>	<u>25%</u>	<u>-</u>	<u>-</u>
<u>8%</u>	<u>27.5%</u>	<u>-</u>	<u>-</u>
<u>9%</u>	<u>30%</u>	<u>-</u>	<u>-</u>
<u>10%</u>	<u>32.5%</u>	<u>20%</u>	<u>5%</u>
<u>11%</u>	<u>35%</u>	<u>21.5%</u>	<u>6%</u>
<u>12%</u>	<u>38.75%</u>	<u>23%</u>	<u>7%</u>
<u>13%</u>	<u>42.5%</u>	<u>24.5%</u>	<u>8%</u>
<u>14%</u>	<u>46.25%</u>	<u>26%</u>	<u>9%</u>
<u>15%</u>	<u>50%</u>	<u>27.5%</u>	<u>10%</u>
<u>16%</u>	<u>50%</u>	<u>29%</u>	<u>11%</u>
<u>17%</u>	<u>50%</u>	<u>30.5%</u>	<u>12%</u>
<u>18%</u>	<u>50%</u>	<u>32%</u>	<u>13%</u>
<u>19%</u>	<u>50%</u>	<u>33.5%</u>	<u>14%</u>
<u>20%</u>	<u>50%</u>	<u>35%</u>	<u>15%</u>
<u>21%</u>	<u>50%</u>	<u>38.75%</u>	<u>16%</u>
<u>22%</u>	<u>50%</u>	<u>42.5%</u>	<u>17%</u>
<u>23%</u>	<u>50%</u>	<u>46.25%</u>	<u>18%</u>
<u>24%</u>	<u>50%</u>	<u>50%</u>	<u>19%</u>
<u>25%</u>	<u>50%</u>	<u>50%</u>	<u>20%</u>
<u>26%</u>	<u>50%</u>	<u>50%</u>	<u>21%</u>
<u>27%</u>	<u>50%</u>	<u>50%</u>	<u>22%</u>
<u>28%</u>	<u>50%</u>	<u>50%</u>	<u>23%</u>
<u>29%</u>	<u>50%</u>	<u>50%</u>	<u>24%</u>
<u>30%</u>	<u>50%</u>	<u>50%</u>	<u>25%</u>
<u>31%</u>	<u>50%</u>	<u>50%</u>	<u>26%</u>
<u>32%</u>	<u>50%</u>	<u>50%</u>	<u>27%</u>

<u>33%</u>	<u>50%</u>	<u>50%</u>	<u>28%</u>
<u>34%</u>	<u>50%</u>	<u>50%</u>	<u>29%</u>
<u>35%</u>	<u>50%</u>	<u>50%</u>	<u>30%</u>
<u>36%</u>	<u>50%</u>	<u>50%</u>	<u>31%</u>
<u>37%</u>	<u>50%</u>	<u>50%</u>	<u>32%</u>
<u>38%</u>	<u>50%</u>	<u>50%</u>	<u>33%</u>
<u>39%</u>	<u>50%</u>	<u>50%</u>	<u>34%</u>
<u>40%</u>	<u>50%</u>	<u>50%</u>	<u>35%</u>
<u>41%</u>	<u>50%</u>	<u>50%</u>	<u>38.75%</u>
<u>42%</u>	<u>50%</u>	<u>50%</u>	<u>42.5%</u>
<u>43%</u>	<u>50%</u>	<u>50%</u>	<u>46.25%</u>
<u>44%</u>	<u>50%</u>	<u>50%</u>	<u>50%</u>
<u>100%</u>	<u>80%</u>	<u>80%</u>	<u>80%</u>

Notwithstanding the foregoing, a cap on density will not apply if both of the following conditions are met:

1. One hundred (100) percent of the units in a housing development exclusive of manager's units, are restricted and affordable to very-low and low-income households, except that no more than twenty (20) percent of the total units (including density bonus units) in the housing development are restricted and affordable to moderate-income households.
 2. The housing development is located within one-half (1/2) mile of a major transit stop with unobstructed access.
- B. Density Bonus for Transitional Foster Youth, Disabled Veterans, or Homeless Persons. A housing development that is eligible for a density bonus at the level set forth in Section 21.32.030(A)(5) shall be entitled to a density bonus of twenty (20) percent.
- C. Density Bonus for Lower Income College Students. A student housing development that is eligible for a density bonus at the level set forth in Section 21.32.030(A)(6) shall be entitled to a density bonus of thirty-five (35) percent.
1. All units in the student housing development shall be used exclusively for undergraduate, graduate, or professional students enrolled full-time at an institution of higher education accredited by the Western Association of Schools and Colleges or the Accrediting Commission for Community and Junior Colleges.
 2. The applicant or property owner shall provide evidence to the City that the housing development shall be subject to an operating agreement or lease with one (1) or more institution of higher education that all units shall be exclusively occupied by the students of the institution(s).
 3. The rent for affordable units shall be calculated at thirty (30) percent of sixty-five (65) percent of the area median income for a single-room occupancy unit.
 4. Priority for the affordable units shall be given to lower-income students experiencing homelessness. A homeless service provider, as defined in paragraph (3) of subdivision (e) of Section 103577 of the Health and Safety Code, or institution of

higher education that has knowledge of a person's homeless status may verify a person's status as homeless for purposes of this subsection.

5. For purposes of calculating a density bonus granted pursuant to this section, the term "unit" shall mean one (1) rental bed and its pro rata share of associated common area facilities.

D. Density Bonus for Condominium Conversion. A condominium conversion that is eligible for a density bonus pursuant to Section 21.32.030(A)(7) shall be entitled to a density bonus of twenty-five (25) percent provided the condominium conversion meets all of the requirements in Section 20.32.100.

E. Density Bonus for Senior Housing. A senior housing development that is eligible for a density bonus pursuant to Section 21.32.030(A)(8) shall be entitled to a density bonus of twenty (20) percent.

F. Density Bonus for donating land for very low income units. A housing development that includes the donation of land for the development of very low income housing pursuant to Section 21.32.030(A)(9) shall be entitled to a density bonus calculated as follows:

TABLE 21.32-2

LAND DEDICATED TO ACCOMMODATE VERY LOW INCOME

<u>Percentage of Base Units Proposed</u>	<u>Density Bonus Percentage</u>
<u>10%</u>	<u>15%</u>
<u>11%</u>	<u>16%</u>
<u>12%</u>	<u>17%</u>
<u>13%</u>	<u>18%</u>
<u>14%</u>	<u>19%</u>
<u>15%</u>	<u>20%</u>
<u>16%</u>	<u>21%</u>
<u>17%</u>	<u>22%</u>
<u>18%</u>	<u>23%</u>
<u>19%</u>	<u>24%</u>
<u>20%</u>	<u>25%</u>
<u>21%</u>	<u>26%</u>
<u>22%</u>	<u>27%</u>
<u>23%</u>	<u>28%</u>
<u>24%</u>	<u>29%</u>
<u>25%</u>	<u>30%</u>
<u>26%</u>	<u>31%</u>
<u>27%</u>	<u>32%</u>
<u>28%</u>	<u>33%</u>
<u>29%</u>	<u>34%</u>
<u>30%</u>	<u>35%</u>

1. Any increase authorized by this subsection may be approved in addition to any increase in density allowed by Section 21.32.030 up to a maximum combined density increase of thirty five (35) percent.
2. The donated land shall be the greater of:
 - a. One (1) acre;
 - b. Sufficient square footage or acreage to permit development of the percentage of base units proposed; or
 - c. Sufficient square footage or acreage to permit development of forty (40) units under the existing General Plan and zoning designation.
3. The existing General Plan and zoning designation of the donated land shall be zoned to accommodate at least thirty (30) dwelling units per acre, and is, or will be, served by adequate public facilities and infrastructure through the construction of the housing development.
4. The land shall be donated and transferred to the City or a housing developer that is approved by the City. The applicant shall donate and transfer the land no later than the date of approval of the final subdivision map, or issuance of building permits for the housing development where no subdivision is required.
5. The City shall not approve the final subdivision map or issue building permits for the housing development unless and until all permits, other than building permits, for the development of very low income housing have been issued for the donated and transferred land.
6. The donated and transferred land shall be within the boundary of the housing development, or upon approval of the review authority, within one quarter ($\frac{1}{4}$) mile of the housing development.
7. The source of funding for the development of very low income housing on the donated and transferred land shall be identified not later than the date of approval of the final subdivision map or issuance of building permits for the housing development.
8. The donated and transferred land and the affordable units shall be subject to a deed restriction recorded on the property at the time of transfer ensuring continued affordability of the units consistent with Section 21.32.130.

21.32.060 Parking Requirements in Density Bonus Projects:

A. Applicability. For a housing development that meets one (1) of the eligibility levels in Section 21.32.030, the applicant may request application of the parking requirements set forth below. An applicant may request additional parking incentives beyond those provided in this section in compliance with Sections 21.32.070 and 21.32.080.

B. Number of Parking Spaces Required:

1. Parking Ratios. At the request of the applicant, the following minimum parking ratios apply to the housing development:

<u>Dwelling Unit Size</u>	<u>Onsite Parking per Unit</u>
<u>Studio to 1 Bedroom</u>	<u>1 space</u>
<u>2 to 3 Bedrooms</u>	<u>1.5 spaces</u>
<u>4 or more Bedrooms</u>	<u>2.5 spaces</u>

2. Within One-Half Mile (1/2) of Major Transit Stop. Notwithstanding subsection B(1), if a housing development provides at least twenty (20) percent low-income units or eleven (11) percent very low-income units and is located within one-half (1/2) mile of a major transit stop with unobstructed access, then upon the request of the developer, the City may not impose a vehicular parking ratio, inclusive of handicapped and guest parking, that exceeds 0.5 spaces per bedroom.

3. Zero Parking. Notwithstanding subsection B(1), if a housing development consists solely of rental units affordable to lower income families; then upon the request of the developer, the City may not impose a vehicular parking ratio, inclusive of handicapped and guest parking, if either of the following criteria are met:
 - a. The housing development is located within one-half (1/2) mile of a major transit stop with unobstructed access from the housing development;
 - b. The housing development is a for rent housing development for individuals who are 62 years of age or older that meet the definition in Sections 51.2 and 51.3 of the Civil Code and the housing development has either paratransit service or unobstructed access within one-half (1/2) mile of a fixed bus route that operates at least eight (8) times per day; or
 - c. The housing development is either a special needs housing development, as defined in Section 51312 of the Health and Safety Code, or supportive housing development as defined in Section 50675.14 of the Health and Safety Code, and the housing development has either paratransit service or unobstructed access within one-half (1/2) mile of a fixed bus route that operates at least eight (8) times per day.

4. Notwithstanding subsections (B)(2) and (B)(3), the City may impose the parking ratio set forth in subsection (B)(1), if the City or an independent consultant has conducted an areawide or jurisdiction-wide parking study in the past seven (7) years that demonstrates a higher parking ratio is necessary based upon an analysis of parking availability, differing levels of transit access, walkability access to transit services, the potential for shared parking, the effect of parking requirements on the cost of market-rate and subsidized developments, and the lower rates of car ownership for low-income and very low-income individuals, including seniors and special needs individuals.

- C. Location of Parking. For purposes of this section, a housing development may provide on-site parking through uncovered or tandem on-site parking.

D. Rounding of Partial Parking Spaces. If the total number of parking spaces required for a housing development is other than a whole number, the number shall be rounded up to the next whole number.

21.32.070 Allowed Incentives or Concessions.

A. Applicant Request and City Approval. The applicant shall include any request for incentive(s) or concession(s) listed in subsection (C) of this section concurrently with the application for project approval. The applicant shall provide documentation establishing that an incentive or concession is necessary to make the housing units economically feasible. When an applicant makes a request for an incentive or concession, the review authority shall grant the request unless one (1) or more of the following findings is made:

1. The incentive or concession is not required in order to provide affordable housing costs or for rents for the targeted units to be set as specified in Section 21.32.130(B);
2. The incentive or concession would have a specific adverse impact upon public health and safety, 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; or
3. The incentive would be contrary to state or federal law.

B. Number of Incentives or Concessions. Except as provided in subsection (A) of this section, the review authority shall grant the following number of incentives or concessions:

1. One (1) incentive or concession for a housing development that includes at least ten (10) percent of the total units for low-income households, at least five (5) percent of the total units for very low-income households, at least twenty (20) percent of the total units for low-income students in a student housing development, or at least ten (10) percent of the total units for moderate-income households in a for-sale housing development.
2. Two (2) incentives or concessions for a housing development that includes at least seventeen (17) percent of the total units for low-income households, at least ten (10) percent of the total units for very low-income households, or at least twenty (20) percent of the total units for moderate-income households in a for-sale housing development.
3. Three (3) incentives or concessions for a housing development that includes at least twenty-four (24) percent of the total units for low-income households, at least fifteen (15) percent of the total units for very low-income households, or at least thirty (30) percent of the total units for moderate-income households in a for-sale housing development.
4. Four (4) incentives or concession for projects that meet the criteria of Section 21.32.030(A)(4). If the housing development is located within one-half (1/2) mile of a

major transit stop with unobstructed access, the housing development is eligible for a height increase of up to three (3) additional stories, or thirty three (33) feet.

C. Type of Incentive or Concession. For the purposes of this chapter, "incentive" or "concession" mean any of the following:

1. A reduction in the development standard(s) as that term is defined in Section 21.32.020 that results in identifiable, financially sufficient, and actual cost reductions;
2. A mixed-use project in conjunction with the housing development, if the nonresidential portion of the mixed-use project will reduce the cost of the housing development, is compatible with the residential portion of the housing development, and is compatible with adjacent existing or planned development;
3. A reduction or waiver of any City imposed fee or dedication of land, which shall be at the sole discretion of the City Council; and/or
4. Other regulatory incentives that will result in identifiable, financially sufficient, and actual cost reductions.

21.32.080 Waivers or Reductions of Development Standards.

In addition to requesting an incentive or concession, an applicant for a density bonus may also submit a proposal to the City to waive or reduce an unlimited number of development standards that would otherwise preclude or inhibit construction of the housing development at the densities or with the incentives permitted by this chapter.

A. When an applicant makes a request for a waiver, the review authority shall grant the request unless any of the following findings are made:

1. The waiver or reduction of development standards would have a specific adverse impact upon public health or safety, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact.
2. The waiver or reduction of development standards would have an adverse impact on any real property listed in the California Register of Historical Resources.
3. The waiver or reduction of development standards would be contrary to state or federal law.

B. Notwithstanding Section 21.32.080(A), a housing development that is eligible for no cap on density pursuant Section 21.32.050(A) shall only be eligible for a waiver or reduction of development standards as provided in Section 21.32.070(B)(4).

21.32.090 Incentives for Housing with Childcare Facilities.

A. Incentives. A housing development that complies with the income requirements of Section 21.32.030(A) and includes a childcare facility, other than a large or small family

day care home, that will be located on the same site as the development, shall be eligible for either of the following additional incentives:

1. An amount of residential floor area equal to or greater than the floor area of the childcare facility; or
2. An incentive that contributes to the economic feasibility of the childcare facility (e.g., reduction of development standards, reduced parking requirements, monetary contribution) as provided in Section 21.32.070(C).

Notwithstanding the foregoing, the City shall not be required to provide a density bonus for a childcare facility if it finds that the community has adequate childcare facilities.

B. Requirements to Qualify for Incentives. The City shall require, as a condition of approval of the housing development, that:

1. The childcare 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 21.32.130; and
2. Of the children who attend the childcare facility, the children of very low-income, low-income, or moderate-income households shall equal a percentage that is equal to or greater than the percentage of dwelling units that are required for very low-income, lower-income, or moderate-income households in compliance with Section 21.30.030(A).

21.32.100 Condominium Conversions.

A. Density Bonus. When an applicant proposes to convert apartments to condominiums, which meet the eligibility level in Section 21.32.030(A)(7), the City shall grant either a density bonus of up to twenty-five (25) percent pursuant to Section 21.32.050(D) to create additional units on the project site or other incentive of equivalent financial value provided:

1. The applicant agrees to pay for the reasonably necessary administrative costs, including, but not limited to, staff costs, consultant fees, photocopy costs, and mailing fees, incurred by the City; and
2. The City places such reasonable conditions on the granting of a density bonus or other incentives of equivalent financial value as it finds appropriate, including, but not limited to, conditions which assure continued affordability of units to subsequent very low-, low- and moderate-income households.

B. Replacement Units. All units within the condominium conversion shall meet the replacement requirements in Section 21.32.120.

C. Ineligible Requests. Apartments which are proposed for conversion to condominiums shall be ineligible for a density bonus or other incentive under this section if the apartments were previously granted a density bonus, concession, incentive, or waiver or reduction of development standards.

- D. Preapplication Process. An applicant may submit a preliminary application to the City for the condominium conversion on a form provided by the Director prior to the submittal of an application under Chapters 19.08 and 19.64. Within ninety (90) days of receipt of the preliminary application, the City shall notify the applicant in writing whether the application is eligible for a condominium conversion pursuant to this section.
- E. Approval. An application for condominium conversion shall meet the requirements set forth in Chapter 19.64. Nothing in this section shall be construed to require the City to approve an application for a condominium conversion.

21.32.110 Design and Distribution of Affordable Units.

Affordable units shall be designed and distributed within the housing development as follows:

- A. Number of Bedrooms. Affordable units shall reflect the range of numbers of bedrooms provided in the residential development project as a whole;
- B. Comparable Quality and Facilities. Affordable units shall constructed to the same quality and exterior design as the market-rate housing units. Additionally, the affordable units shall include the same laundry, recreation and other facilities that are made available to the market-rate housing units;
- C. Access. In mixed-income multi-unit structures, the occupants of the affordable units shall have the same access to common entrances and any common areas including parking areas in that structure as the occupants of the market-rate housing units;
- D. Size. Affordable units may be smaller and have different interior finishes and features than the market-rate units; and
- E. Location. Affordable units shall be distributed within the residential development, unless clustering is allowed by the review authority. Notwithstanding, in a mixed-income multi-unit structure, affordable units shall not be isolated to a specific floor or an area of a specific floor.

21.32.120 Replacement Units.

An application for a density bonus on any property with existing rental dwelling units or rental dwelling units that were vacated or demolished within the five (5) years preceding the application; and are, or were, subject to a recorded covenant that restricts rents to very low- or low-income households; or are, or were, occupied by very low- or low-income household(s) shall be subject to all of the following requirements:

- A. Occupied Units. For rental dwelling units that are occupied on the date of the application, the housing development shall provide at least the same number of affordable units of equivalent size at affordable rent or affordable housing cost to, and occupied by, persons or families in the same or lower income category as the existing occupants.
- B. Vacant or Demolished Units. For rental dwelling units that have been vacated or demolished within the five (5) years preceding the application, the housing development shall provide at least the same number of affordable units of equivalent size as existed at the highest occupancy point for those units in the five (5) years preceding the application at affordable rent or affordable housing cost to, and occupied by, persons

and families in the same or lower income category as the persons or families that occupied the units immediately preceding the vacancy or demolition.

C. Unknown Household Income. If the income of the existing occupants or occupants within the past five (5) years is unknown to the City or the applicant, it shall be rebuttably presumed that the rental dwellings units were occupied by low-income and very low-income renter households as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database.

21.32.130 Continued Availability.

The units that qualified the housing development for a density bonus and other incentives shall continue to be available as affordable and/or senior units in compliance with the following requirements:

A. Duration of Availability. The applicant shall record a covenant on the property that the units that qualified the housing development for a density bonus and other incentives are restricted as affordable units for at least fifty five (55) years, or a longer time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program.

B. Affordable Costs. The rents and owner-occupied costs charged for the housing units shall not exceed the following amounts during the period of continued availability required by this section:

1. Rental Units. Rents for density bonus units shall be set at an affordable rent as defined in Health and Safety Code Section 50053; and

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.

21.32.140 Occupancy and Resale of Ownership Units.

A housing development that includes for-sale units that are restricted and affordable to moderate-income households shall limit the occupancy and resale of the units as set forth in this section.

A. Initial Occupancy. A for-sale unit, which qualified the applicant for the award of the density bonus, shall meet either of the following requirements:

1. The unit is initially occupied by a very low-, low-, or moderate-income household, offered at an affordable housing cost as defined in Section 50052.5 of the Health and Safety Code, and subject to an equity sharing agreement; or

2. The unit is purchased by a qualified nonprofit housing corporation pursuant a contract that is recorded on the property, and all of the following are satisfied:

a. The nonprofit housing corporation is organized pursuant to Internal Revenue Code Section 501(c)(3) and has received a welfare exemption under Revenue

and Taxation Code Section 214.15 for properties intended to be sold to low-income families who participate in a special no interest loan program;

- b. The contract restricts the use of the land for at least thirty (30) years to owner-occupied housing that is available at an affordable housing cost;
 - c. The contract includes a deed of trust on the property in favor of the nonprofit corporation to ensure compliance with the terms of the program, which has no value unless the owner fails to comply with the covenants and restrictions of the terms of the home sale;
 - d. The City Attorney finds that the long term deed restrictions in the contract serve a public purpose;
 - e. A repurchase option that requires a subsequent purchaser of the property that desires to sell or convey the property to offer the qualified nonprofit corporation the right to repurchase the property prior to selling or conveying that property to any other purchaser; and
 - f. Affordability restrictions on the sale and conveyance of the property that ensure that the property will be preserved for lower income housing for at least forty-five (45) years for owner-occupied housing units and will be sold or resold only to very low, low, or moderate income households.
- B. Resale. As part of the affordable housing agreement required pursuant to Section 21.32.160, the applicant shall enter into an equity sharing agreement with the City for the resale of affordable common interest units, unless it would be in conflict with the requirements of another public funding source or law. In lieu of an equity sharing agreement, the housing project could sell the units to a nonprofit housing corporation pursuant to Section 21.32.140(A)(2). The following requirements apply to the equity sharing agreement:
- 1. 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; and
 - 2. The City shall recapture any initial subsidy and its proportionate share of appreciation, which shall then be used within five (5) years for any of the purposes described in Health and Safety Code Section 33334.2(e) that promote home ownership. For the purposes of this section:
 - a. 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, plus the amount of any down payment assistance or mortgage assistance. If upon resale the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value;
 - b. The City's proportionate share of appreciation shall be equal to the ratio of the initial subsidy to the fair market value of the home at the time of initial sale; and
 - c. The initial subsidy shall include any incentives granted by the City and shall be equal to the monetary equivalent of the incentives.

21.32.040150 Approval Process.

An applicant requesting a density bonus, incentive, concession, or waiver pursuant to this chapter shall require approval of an Affordable Housing Implementation Plan pursuant to Sections 20.50.030 and 20.52.015 and a coastal development permit or waiver pursuant to Chapter 21.52 (Coastal Development Review Procedures).

21.32.160 Affordable Housing Agreement.

The applicant approved for a density bonus, concession, incentive, or waiver under this chapter shall agree to construct, operate and maintain the affordable units in accordance with an affordable housing agreement. The affordable housing agreement shall be executed in a recordable form prior to the issuance of a building permit for any portion of a housing development subject to the requirements of this chapter. The affordable housing agreement shall be binding upon all future owners and successors in interest.

A. Review. The terms of the affordable housing agreement shall be reviewed and revised as appropriate by the Director and City Attorney.

B. Fees. The City may establish fees associated with the setting up and monitoring of the affordable units.

C. Contents. The affordable housing agreement shall include at least the following:

1. Identification of Affordable Units. Affordable units shall be identified by address and legal description, type (floor area, number of bedrooms/baths, unit size, etc.), and designated household income category. The affordable housing agreement shall also identify the total number of affordable units and total number of units approved for the housing development.

2. Term of Affordability. Unless specified elsewhere in this chapter a minimum term of fifty five (55) years of the specified affordability shall be required. Such reservation period shall begin on the date a certificate of occupancy is granted for the affordable units.

3. Maximum Allowable Rent or Sales Price.

a. Rental Housing Developments. In the case of rental housing developments, the affordable housing agreement shall provide for the following conditions governing the use of the affordable housing units during the use restriction period:

i. The rules and procedures for qualifying tenants, establishing affordable rent, filling vacancies, and maintaining the affordable units for qualified tenants.

ii. Provisions requiring owners to verify tenant incomes and maintain books and records to demonstrate compliance with this chapter.

iii. Provisions requiring owners to submit an annual report to the City, which includes the name, address and income of each person occupying each affordable unit, and which identifies the bedroom size and monthly rent or cost of each affordable unit.

- iv. A maximum rent schedule shall be submitted to the City prior to the issuance of an occupancy permit for the affordable units, and updated annually on the anniversary date of occupancy.
- v. Total move-in costs for eligible tenants occupying affordable units shall be limited to first month's rent plus a security/cleaning deposit not to exceed one month's rent.
- vi. When a tenant occupying an affordable unit no longer qualifies under the income requirements, verified through the monitoring program required as part of the affordable housing agreement, that tenant may then be charged market rate rent. If this occurs, any currently vacant unit of similar type to the affordable unit in question shall then be designated as an affordable unit, and the owner shall immediately attempt to secure tenants in accordance with this chapter. The owner is required to maintain at all times during the use restriction the minimum number of affordable units identified in the affordable housing agreement.
- vii. No subletting or short-term occupancy of designated affordable units shall be allowed.

b. Ownership Projects. In the case of for sale housing developments, as a condition of approval of the housing development, the City shall require an affordable housing agreement that includes the following conditions governing the initial sale and use of affordable units during the applicable use period:

- i. Affordable units shall, upon initial sale, be sold to eligible very low- and low-income households at an affordable sales price and housing cost, or to qualifying residents in the case of a senior citizen housing development.
- ii. Affordable units shall be initially owner-occupied by eligible very low- or low-income households, or by qualifying residents in the case of a senior citizen housing development.
- iii. The initial purchaser of each affordable housing unit shall execute an instrument or agreement approved by the City restricting the sale of the affordable housing unit in accordance with this chapter during the applicable use restriction period. Such instrument or agreement shall be recorded against the parcel containing the affordable housing unit and shall contain such provisions as the City may require to ensure continued compliance with this chapter and State Density Bonus Law.
- iv. The affordable housing agreement shall stipulate that, when the terms of affordability expire on an affordable unit, the City and/or a non-profit housing organization shall have a first right of purchase option sixty (60) days prior to the affordable unit being advertised on the market.
- v. Rental of affordable units shall not be allowed.
- vi. When an equity sharing agreement is required by this chapter, the affordable housing agreement shall specify the equity sharing agreement comply with Section 21.32.140.

4. Monitoring of Compliance to Agreement. A monitoring program shall be required, specifying the party responsible for certifying tenant incomes and sales price.

maintaining the required number of affordable units for the property, marketing and filling unit vacancies.

5. Remedies. Description of remedies for breach of the affordable housing agreement by either party (the City may identify tenants or qualified purchasers as third-party beneficiaries under the agreement).
6. Description of Density Bonus. A description of the incentives and/or concessions, if any, being provided by the City.
7. Schedule. A schedule for completion and occupancy of the affordable units.
8. Other Provisions. Other provisions to ensure implementation and compliance with this chapter.

Section 3: Section 21.70.020 (Definitions of Specialized Terms and Phrases) of Title 21 (Local Coastal Program Implementation Plan) of the NBMC is amended to include the following definitions with all other definitions to remain unchanged:

“Density bonus” means a density increase over the maximum allowable density under the applicable coastal zoning district and Coastal Land Use Plan as of the date of application. means, as defined by Government Code Section 65915 et seq., an increase over the maximum density otherwise allowed by the applicable zoning district that is granted to the owner/developer of a housing project who agrees to construct a prescribed percentage of dwelling units that are affordable to very low and low-income households. See “Very low-income household” and “Low-income household.”

“Extremely low income household” means persons and families whose income does not exceed thirty (30) percent of the area median income for Orange County, as published by the California Department of Housing and Community Development, adjusted for family size and revised annually.

“Low income household” means persons and families whose income is greater than fifty (50) percent but does not exceed eighty (80) percent of the area median income for Orange County, as published by the California Department of Housing and Community Development, adjusted for family size and revised annually. a household whose income is between fifty (50) percent and eighty (80) percent of the Orange County median income (“Area median income”), adjusted for actual household size, as determined by the California Department of Housing and Community Development.

“Moderate income household” means persons and families whose income is greater than eighty (80) percent but does not exceed one hundred twenty (120) percent of the area median income for Orange County, as published by the California Department of Housing and Community Development, adjusted for family size and revised annually. a household whose income is between eighty (80) percent and one hundred twenty (120) percent of the Orange County median income (“Area median income”), adjusted for actual household size, as determined by the California Department of Housing and Community Development.

“Very low income household” means persons and families whose income is greater than thirty (30) percent but does not exceed fifty (50) percent of the area median income for Orange County, as published by the California Department of Housing and Community Development.

adjusted for family size and revised annually. a household whose income is fifty (50) percent or less of the Orange County median income ("Area Median Income"), adjusted for actual household size, as determined by the California Department of Housing and Community Development.

Bold Underline/Strikeout Version of Additional Revisions to Title 21 (Local Coastal Program Implementation Plan)

Part No. 01: Footnote 7 of Table 21.18-4 shall be modified, as follows:

TABLE 21.18-4 DEVELOPMENT STANDARDS FOR MULTI-UNIT RESIDENTIAL COASTAL ZONING DISTRICTS

Notes:

...

(7) **Density bonuses may be granted in compliance with Chapter 21.32.** ~~Density bonuses may be granted for the development of housing that is affordable to lower-, low-, and moderate-income households and senior citizens in compliance with Government Code Sections 65915 through 65917. Any housing development approved pursuant to Government Code Section 65915 shall be consistent, to the maximum extent feasible, and in a manner most protective of coastal resources, with all otherwise applicable Local Coastal Program policies and development standards.~~

Part No. 02: Footnote 6 of Table 21.22-3 shall be modified, as follows:

TABLE 21.22-3 DEVELOPMENT STANDARDS FOR VERTICAL AND HORIZONTAL MIXED-USE ZONING DISTRICTS

Notes:

...

(6) **Density bonuses may be granted in compliance with Chapter 21.32.** ~~Density bonuses may be granted for the development of housing that is affordable to lower-, low-, and moderate-income households and senior citizens in compliance with Government Code Sections 65915 through 65917. Any housing development approved pursuant to Government Code Section 65915 shall be consistent, to the maximum extent feasible, and in a manner most protective of coastal resources, with all otherwise applicable Local Coastal Program policies and development standards.~~

Part No. 03: Footnote 7 of Table 21.22-4 shall be modified, as follows:

TABLE 21.22-4 DEVELOPMENT STANDARDS FOR WATERFRONT MIXED-USE ZONING DISTRICTS

Notes:

...

~~(7) **Density bonuses may be granted in compliance with Chapter 21.32.** Density bonuses may be granted for the development of housing that is affordable to lower-, low-, and moderate-income households and senior citizens in compliance with Government Code Sections 65915 through 65917. Any housing development approved pursuant to Government Code Section 65915 shall be consistent, to the maximum extent feasible, and in a manner most protective of coastal resources, with all otherwise applicable Local Coastal Program policies and development standards.~~

Part No. 04: Chapter 21.70.020 shall be modified, as follows:

~~“Affordable housing agreement” means an agreement entered into between the City and a developer or property owner that restricts the rental or sale of affordable units to very low-income, low-income, and/or moderate income households. See “Very low income household,” “Low income household,” and “Moderate income household.”~~

Part No. 05: Chapter 21.30A.050(E) shall be modified, as follows:

E. Parking.

1. Off-Street Parking Spaces Required. Any required off-street parking spaces shall be provided in compliance with Chapter 21.40. **However, modifications to these standards may be permitted pursuant to Chapter 21.32 (Density Bonus) in situations where reduced parking requirements would not significantly impact public access to the shoreline.**

Pages 32-34 – Modify Appendix B: LCPA IP Amendment Clean Text Including Suggested Modifications, as follows:

The current Appendix B: LCPA IP Amendment Clean Text Including Suggested Modifications will be deleted and entirely replaced with the following updated Appendix B: LCPA IP Amendment Clean Text Including Suggested Modifications.

Clean Version of Title 21 (Local Coastal Program Implementation Plan) Revisions

Local Coastal Program Amendment No. LC2020-004

Section 1: Subsection (C)(1) of Section 21.12.020 (Rules of Interpretation) of Chapter 21.12 (Interpretation of Implementation Plan Provisions) of Title 21 (Local Coastal Program Implementation Plan) of the NBMC is hereby amended to read as follows:

C. Calculations.

1. Residential Density. Except for projects that include a density bonus in accordance with Chapter 21.32, when the number of dwelling units allowed on a site is calculated based on the minimum site area per dwelling unit, any fraction of a unit shall be rounded down to the next lowest whole number. For example, where a residential zoning district requires a minimum site area per dwelling unit of one thousand five hundred (1,500) square feet; a site of ten thousand (10,000) square feet would be allowed six (6) dwelling units (10,000 sq. ft/1,500 sq. ft. per dwelling unit = 6.66 dwelling units, which is rounded down to six (6) dwelling units).

Section 2: Chapter 21.32 (Density Bonus) of Title 21 (Interpretation of Implementation Plan Provisions) of the NBMC is hereby added to read as follows:

**Chapter 21.32
DENSITY BONUS**

Sections:

- 21.32.010 Purpose.**
- 21.32.020 Coastal Act Consistency**
- 21.32.030 Density Bonus, Concessions, Incentives, and Waivers**
- 21.32.040 Approval Process**

21.32.010 Purpose

The purpose of this chapter is to provide a means for granting density bonuses and incentives in compliance with State Density Bonus Law, Government Code Section 65915 et seq., as the same may be amended from time to time.

21.32.020 Coastal Act Consistency

- A. California Government Code Section 69515(m) provides that density bonus law shall not be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976. Any density bonus, concessions, incentives, waivers or reductions of development standards, and parking ratios to which the applicant is entitled

under California State Government Code Section 65915 et. seq., shall be permitted in a manner that is consistent with that section and the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code).

- B. A requested density bonus and any requested incentive, concession, waiver, modification, or modified parking standard shall comply with all applicable standards and use regulations of the certified Local Coastal Program Implementation Plan, with the exception of the development standards waived, reduced, or modified through density bonus provisions. In no case shall the coastal resource protection development regulations of Sections 21.28.040 (Bluff (B) Overlay District), 21.28.050 (Canyon (C) Overlay District), 21.30.015(D)(Waterfront Development), 21.30.015(E)(2) (Development in Shoreline Hazardous Areas) and 21.30.100 (Scenic and Visual Quality Protection), or Chapters 21.30A (Public Access and Recreation) and 21.30B (Habitat Protection) be waived, reduced, or modified.

21.32.030 Density Bonuses, Concessions, Incentives, and Waivers

Unless restricted by Section 21.32.020, eligible housing development or mixed-use development projects may be granted density bonuses, concessions, incentives, and waivers pursuant to California State Government Code Section 65915 et. seq., which may be amended from time to time.

21.32.040 Approval Process.

An applicant requesting a density bonus, incentive, concession, or waiver pursuant to this chapter shall require approval of a coastal development permit or waiver pursuant to Chapter 21.52 (Coastal Development Review Procedures).

Section 3: Section 21.70.020 (Definitions of Specialized Terms and Phrases) of Title 21 (Local Coastal Program Implementation Plan) of the NBMC is amended to include the following definitions with all other definitions to remain unchanged:

“Density bonus” means a density increase over the maximum allowable density under the applicable coastal zoning district and Coastal Land Use Plan as of the date of application.

Clean Version of Additional Revisions to Title 21 (Local Coastal Program Implementation Plan)

Part No. 01: Footnote 7 of Table 21.18-4:

TABLE 21.18-4 DEVELOPMENT STANDARDS FOR MULTI-UNIT RESIDENTIAL COASTAL ZONING DISTRICTS

Notes:

...

(7) Density bonuses may be granted in compliance with Chapter 21.32.

Part No. 02: Footnote 6 of Table 21.22-3:

**TABLE 21.22-3
DEVELOPMENT STANDARDS FOR VERTICAL AND
HORIZONTAL MIXED-USE ZONING DISTRICTS**

Notes:

...

(6) Density bonuses may be granted in compliance with Chapter 21.32.

Part No. 03: Footnote 7 of Table 21.22-4:

**TABLE 21.22-4
DEVELOPMENT STANDARDS FOR WATERFRONT
MIXED-USE ZONING DISTRICTS**

Notes:

...

(7) Density bonuses may be granted in compliance with Chapter 21.32/

Part No. 05: Chapter 21.30A.050(E):

E. Parking.

1. Off-Street Parking Spaces Required. Any required off-street parking spaces shall be provided in compliance with Chapter 21.40. However, modifications to these standards may be permitted pursuant to Chapter 21.32 (Density Bonus) in situations where reduced parking requirements would not significantly impact public access to the shoreline.