



CITY OF MOUNTAIN VIEW

CITY OF MOUNTAIN VIEW

DENSITY BONUS PROGRAM GUIDELINES

DRAFT

Last Updated: _____

TABLE OF CONTENTS

1. Introduction..... 1
2. Minimum Eligibility 2
3. Incentives/Concessions and Waivers..... 3
4. Parking 5
5. Density Bonuses..... 7
6. Density Metrics and Calculations 10
7. Affordable Housing Requirements..... 14
8. Application Requirements..... 16
9. Required Findings 17

APPENDIX I: City of Mountain View Density Bonus Ordinance

APPENDIX II: State Density Bonus Law

DRAFT

1. INTRODUCTION

The purpose of the Density Bonus Program is to encourage the development of housing for specific groups through a package of incentives for applicants, which includes increases in density above the maximum allowed on a site, reduction in parking standards, and reducing or waiving other development standards. Density Bonus focuses on improving project feasibility for projects that provide housing for lower- and moderate-income households, seniors, students, foster youth, homeless individuals, or disabled veterans. The Density Bonus Program is governed by the State of California Government Code Section 65915, *et seq.* (the “State Density Bonus Law”). The City is responsible for implementing State Density Bonus Law.

The purpose of these Density Bonus Program Guidelines is to provide administrative guidance for implementation of State Density Bonus Law. This document serves as a centralized location for implementation updates consistent with State Density Bonus Law and the City of Mountain View Density Bonus Ordinance. Accordingly, this document provides a single reference for development applicants as well as City staff.

This document reflects standards in the City Code except where those standards are superseded by State Density Bonus Law. Where conflicts between State law, City Code, and this document arise, State Density Bonus Law shall have precedence, then City Code, then this document.

The Density Bonus Program Guidelines can be updated by the Community Development Director, in his or her discretion, and consistent with the Density Bonus Ordinance. Examples of when updates may occur include, without limitation, when new State laws are adopted, when specific cases arise that are not anticipated by this document, and when new interpretations of the City and State Density Bonus Law must be determined. The City Council will have authority to modify the language in the City Code, which supersedes anything to the contrary in this document.

2. MINIMUM ELIGIBILITY

Government Code Sections: 65915(b) and 65915(c)(3)

Housing developments with five or more base units are eligible for a density bonus if: (1) the project meets the replacement requirements for specified types of existing rental units on the site (see Section 7.B. of these Guidelines for more information); and (2) the project contains at least one of the following:

Eligibility Type	Minimum Eligibility Requirement	More Information about Eligibility Type
Very-Low Income units	5 percent of the base units	Very-Low Income is considered to be 50 percent of area median income. This income limit is determined based on Section 8 of the United State Housing Act of 1937 and is updated periodically. The State of California publishes the current income limits on their website. Very-Low Income includes Extremely-Low Income households.
Lower-Income units	10 percent of the base units	Lower Income is considered to include incomes up to 80 percent of area median income. This income limit is determined Section 8 of the United State Housing Act of 1937 and is updated periodically. The State of California publishes the current income limits on their website. Lower Income includes Very-Low Income and Extremely-Low Income.
Low- or Moderate-Income Ownership Units	10 percent of the base units, provided that all units in the development are offered to the public for purchase	Households whose incomes do not exceed 120 percent of area median income and includes Low-, Very-Low, and Extremely-Low Income households.

Eligibility Type	Minimum Eligibility Requirement	More Information about Eligibility Type
Senior Citizen Housing Development	At least 35 dwelling units in a housing development for senior citizens or mobile home park that limits residency based on age for older persons.	Residents must be 55 years or older to for the project to qualify as a senior citizen housing development
100 Percent Affordable Projects	All units, including base units and density bonus units, exclusive of manager units, are for Moderate- or Lower-Income households. No more than 20 percent of the units may be for Moderate-Income households.	Lower and Moderate Income is defined as described above.

State Density Bonus Law makes other housing developments eligible for specific density bonuses, including housing developments with units intended to serve transitional foster youth, disabled veterans, or homeless persons; and student housing developments with units for lower-income students. Eligibility requirements for these types of developments can be found in State Density Bonus Law, located in Appendix II of this document.

3. INCENTIVES/CONCESSIONS AND WAIVERS

A. INCENTIVES/CONCESSIONS
Government Code Section 65915(d)

Development applicants may request the number of incentives/concessions identified in Tables 5.A. to 5.C. below.

Incentives/concessions are reductions or modifications to any regulatory or development standard or Zoning Code requirement, or approval of compatible commercial or industrial uses where otherwise not allowed, except they must comply with the following:

- The incentive/concession must reduce the cost of the development, and that cost reduction must be less than or equal to the cost (i.e., developer subsidy) to provide the affordable units.

- The incentive/concession cannot have a specific, adverse impact to public health and safety, or the environment, or a property listed in the California Register of Historic Resources, or be contrary to State or Federal law.
- The incentive/concession cannot include fees, dedications, financial subsidy, or public land.
- Additional density increases cannot be an incentive/concession. Density can be measured in units per acre or floor area, depending on the zoning and Precise Plan designation.

The City requires reasonable documentation from an applicant to demonstrate that the project is eligible for a proposed incentive/concession. The City may pursue outside experts to verify the accuracy of the reasonable documentation.

Example

A project applicant requests an incentive/concession to reduce a setback standard, without which they would need to engineer a more complex structure. As part of their application, the applicant must provide an estimate of the cost reduction to construct the project with the incentive/concession (i.e., the cost of developing in compliance with the setback minus the cost of encroaching into the setback). The applicant must also provide an estimate of the developer's cost to provide the Density Bonus affordable units (i.e., the cost to develop the units minus the sales price or value of the units). The cost reduction must provide for the affordable housing costs or rents (i.e., be less than or equal to the subsidy).

B. WAIVERS

Government Code Section 65915(e)

Development applicants may request unlimited waivers.

Waivers are reductions or modifications of any development standards that physically preclude the construction of units or incentives/concessions allowed by the Density Bonus Law, except the waivers must comply with the following:

- The waiver cannot have a specific, adverse impact to public health and safety, or the environment, or a property listed in the California Register of Historic Resources, or be contrary to State or Federal law.

- Density limitations cannot be waived. Waivers are provided to accommodate the permitted density, not increase the density beyond what is required by the State Density Bonus Law. Density can be measured in units per acre or floor area, depending on the zoning and Precise Plan designation.

The City requires reasonable documentation to support the proposed waiver. Any reduction in development standards shall be no greater than what is reasonably necessary to physically construct the units or incentive/concession. Therefore, reasonable documentation shall include some argument of proportionality to the density bonus and/or incentives/concessions that are requested or specific site constraints that justifies the waiver.

Example

A project applicant requesting a 35 percent density bonus also requests waivers for height and building coverage. The maximum height is four stories and 55', and the maximum building coverage is 40 percent. Reasonable documentation of the waiver should show that the height and coverage, when considered together, are proportional to the density requested. One additional story, additional height in feet equal to one typical story, and 43 percent coverage (equal to a 25 percent height increase and 7.5 percent coverage increase) would be commensurate with the 35 percent density bonus ($1.25 \times 1.075 < 1.35$). If the applicant requires more than a proportional reduction in development standards, the reasonable documentation shall include a description of the unique constraints of the project or lot that necessitates the additional reduction.

4. PARKING

Government Code Section 65915(p)

Housing developments that are eligible for a density bonus are also eligible for parking ratios as described in State Density Bonus Law. Parking ratios are determined based on the unit types provided in the project. Parking ratios are reduced for projects that are located within one-half mile to a major transit stop and that meet additional criteria as described in the table below. Parking ratios below those listed below may be proposed as an incentive/concession or waiver if the request is consistent with the standards summarized in Section 3 of these Guidelines.

A. REDUCED PARKING RATIOS

Inclusive of guest and unassigned parking. All parking calculations will be rounded up to the next whole number. A development may provide on-site parking through tandem parking for stalls shared by a single unit or uncovered parking but not through on-street parking.

Qualifications	Parking Ratio
Any project that qualifies for a density bonus.	0-1 bedroom units = 1 space
	2-3 bedroom units = 1.5 spaces
	4+ bedroom units = 2.5 spaces
Projects located within one-half mile to a major transit stop (unobstructed access) <i>and</i> meet one of the following criteria: At least 11 percent of base units restricted to very-low income; or At least 20 percent of base units restricted to low income; or At least 40 percent of base units restricted to moderate income.	0.5 space per unit
100 percent affordable rental projects and affordable rental senior housing project (age 62+) with paratransit service or within one-half mile of fixed route bus service operating at least eight times per day.	No off-street parking is required
Special needs or supportive housing for persons with disabilities. Special-needs development must have paratransit service or within one-half mile of fixed-route bus service operating at least eight times per day.	No off-street parking is required

B. TRANSIT AREAS IN THE CITY

The map included below is for general reference only and should not be used for determining parcel-specific compliance. Blue circles show areas within one-half mile of a major transit stop, as defined in State Density Bonus Law. Obstructions may still exist within the blue circle areas that would prevent direct access within one-half mile. As part of the application, applicants must demonstrate an unobstructed path to the nearest major transit stop for consideration of reduced parking requirements.

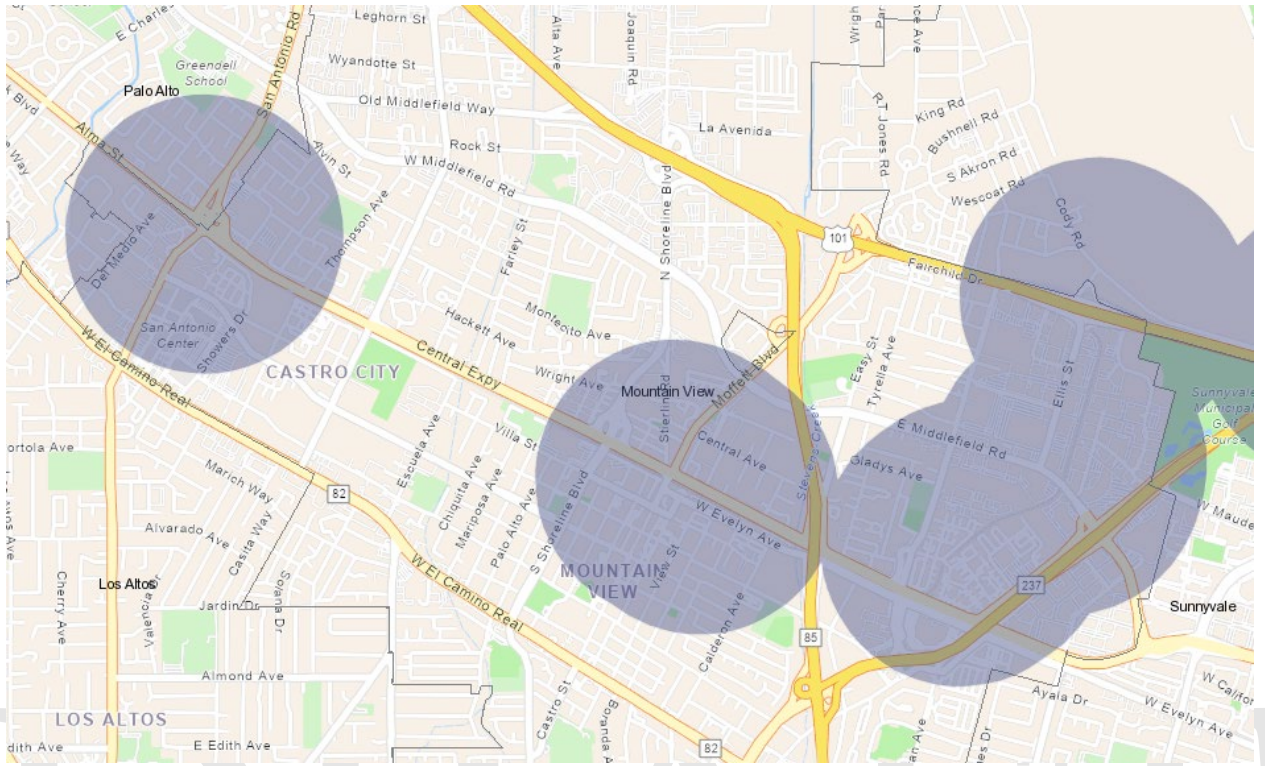


Figure 1: City Transit Areas

5. DENSITY BONUSES

Housing developments that are eligible for a density bonus may receive a higher density bonus if the percentage of Very-Low, Low-, or Moderate-Income housing units exceed the base percentages established through the minimum eligibility. The City, at its sole discretion, may grant a proportionately lower density bonus than what is required in State Density Bonus Law for developments that do not meet the requirements as described in the City Code.

A. VERY-LOW INCOME UNITS

Government Code Section 65915 (f)(2)

Percentage of Base Units for Very-Low Income Units	Percentage Density Bonus	Incentives/Concessions
5	20	1
6	22.5	1
7	25	1
8	27.5	1
9	30	1
10	32.5	2
11	35	2

Percentage of Base Units for Very-Low Income Units	Percentage Density Bonus	Incentives/Concessions
12	38.75	2
13	42.5	2
14	46.25	2
15	50	3
100	80 percent or no maximum if within one-half mile of major transit stop	4

B. LOWER-INCOME UNITS

Government Code Section 65915 (f)(1)

Percentage of Base Units for Low-Income Units	Percentage Density Bonus	Incentives/Concessions
10	20	1
11	21.5	1
12	23	1
13	24.5	1
14	26	1
15	27.5	1
16	29	1
17	30.5	2
18	32	2
19	33.5	2
20	35	2
21	38.75	2
22	42.5	2
23	46.25	2
24	50	3
100	80 percent or no maximum if within one-half mile of major transit stop	4

c. LOW OR MODERATE INCOME OWNERSHIP UNITS
Government Code Section 65915 (f)(4)

Percentage of Base Units for Low or Moderate- Income Ownership Units	Percentage Density Bonus	Incentives/ Concessions
10	5	1
11	6	1
12	7	1
13	8	1
14	9	1
15	10	1
16	11	1
17	12	1
18	13	1
19	14	1
20	15	2
21	16	2
22	17	2
23	18	2
24	19	2
25	20	2
26	21	2
27	22	2
28	23	2
29	24	2
30	25	3
31	26	3
32	27	3
33	28	3
34	29	3
35	30	3
36	31	3
37	32	3
38	33	3
39	34	3
40	35	3
41	38.75	3
42	42.5	3
43	46.25	3
44	50	3

6. **DENSITY METRICS AND CALCULATIONS**

A. DWELLING UNITS OR FLOOR AREA

Density Bonus Ordinance Section 36.48.75(h)

Pursuant to the General Plan, Zoning Code, and adopted Precise Plans, the City defines density in terms of dwelling units in some areas and floor area in other areas. In general, if a dwelling unit per acre standard exists, that standard should be used for density; whereas, if no such standard exists, floor area should be used. The table below illustrates some of the parts of the City where density is defined by dwelling units or floor area.

Planning Area (Examples)	Dwelling Units or Floor Area	
	Dwelling Units	Floor Area
R Districts (e.g., R1, R2, R3) and Residential General Plan Designations	X	
CRA and General Mixed-Use Designation	X	
Downtown Precise Plan	X	
San Antonio Precise Plan		X
El Camino Real Precise Plan		X
North Bayshore Precise Plan		X
East Whisman Precise Plan		X

B. “BASE UNITS” AND “PROJECT UNITS”

Density Bonus Ordinance Section 36.48.75(h)

In the City Code, “base units” is used to define the number of hypothetical units in a project before any bonus density is applied. This language is equivalent to “total units” in the State law. This number is the basis for determining the amount of affordable units that must be provided.

In the City Code, “project units” is used to define the number of actual units proposed by the applicant.

All unit calculations resulting in fractions are rounded up. This may result in actual project dwelling units or floor area being slightly higher than the stated bonus allowed.

C. DENSITY CALCULATIONS WHERE DENSITY IS IN DWELLING UNITS
Density Bonus Ordinance Section 36.48.75(h)

In districts where a dwelling unit per acre density standard is defined, the number of “base units” is equal to the maximum number of units allowed pursuant to the General Plan or Zoning Code.

If the number of “project units” is less than or equal to that maximum, then the project units equals the base units. Fractional units are rounded up.

Example 1

A 60-unit development is proposed on a 1.4-acre site in the CRA Zoning District, where the maximum density is 43 dwelling units per acre. Therefore the number of project and base units equals 60. This project needs only to provide the minimum affordable units to be eligible for density bonus provisions (e.g., 5 percent or three very-low income units), including bonus units, parking reductions, incentives/concessions, and waivers. NOTE: It may be more difficult to determine reasonable need for some waivers if the project does not propose bonus density or incentives/concessions.

Example 2

A 40-unit development is proposed on a 1.13-acre site in the Medium-Density Residential Land Use Designation, where the maximum density is 25 dwelling units per acre.

Base Units = $25 * 1.13 = 28.25$, which is rounded up to 29

If the project provides 11 percent or four very-low-income units (3.19, which rounds up to 4), they would be able to reach their proposed number of project units.

- 11 percent very-low income allows a 35 percent density bonus.
- A 35 percent bonus over 29 units equals 39.15, which rounds up to 40.
- NOTE: The project units is slightly more than 35 percent higher than the base units due to rounding. This is consistent with the State Density Bonus Law, which requires each step in the calculation to be rounded up in order to provide the most housing development potential.

D. DENSITY CALCULATIONS WHERE DENSITY IS IN FLOOR AREA
Density Bonus Ordinance Section 36.48.75(h)

In districts where no dwelling unit per acre standard is defined, the density standard is defined based on floor area, determined by maximum floor area ratio. The number of base units is calculated based on the maximum floor area ratio, with the same average unit sizes. The equation is below.

$$\text{Base Units} = \text{Project Units} * \frac{\text{Maximum Allowable Gross Floor Area} - \text{Project Non-Residential Gross Floor Area}}{\text{Project Gross Floor Area} - \text{Project Non-Residential Gross Floor Area}}$$

If the project residential gross floor area is less than the maximum allowable residential gross floor area, the base units equal the project units. Fractional units are rounded up.

Nonresidential gross floor area is floor area that is solely used by nonresidential tenants or uses. It does not include parking, lobby, trash or utility rooms, or amenity areas (such as fitness rooms) when used by or shared with the residential uses.

El Camino Real and San Antonio Precise Plans

In the El Camino Real and San Antonio Precise Plans, the General Plan maximum floor area ratio includes Bonus FAR or discretionary development tiers in the Precise Plans. The base units are calculated as above, where the maximum allowable gross floor area may include the Bonus FAR based on the satisfaction of such standards.

North Bayshore and East Whisman Precise Plans

In the North Bayshore and East Whisman Precise Plans, the General Plan maximum floor area ratio does not include Bonus FAR or discretionary development tiers in the Precise Plans. The base units are calculated as above, where the maximum allowable gross floor area does not include the Bonus FAR. If an applicant wishes to pursue Bonus FAR, they cannot request a State density bonus.

Example 1

An applicant proposes a 64-unit project in a 105,000 square foot building on a 45,000 square foot lot (2.33 floor area ratio (FAR)). The maximum FAR is 1.85, allowing 83,250 square feet.

Base Units = $64 * (83,250/105,000) = 50.74$, which is rounded up to 51

If the applicant proposes four very-low income units, the applicant would qualify for the bonus.

- Four very-low income units is greater than 7 percent but less than 8 percent of 51 base units, so a 25 percent bonus is allowed.
- A 25 percent bonus over 51 base units equals 63.75 => 64.
- NOTE: The project floor area is more than 25 percent over the maximum allowed gross floor area, but only to the extent that the base and allowed units were rounded up. This is consistent with the State Density Bonus Law, which requires each step in the calculation to be rounded up in order to provide the most housing development potential.

If the applicant only proposes three very-low-income units, the applicant would not qualify for the requested bonus.

- Three very-low income units is greater than 5 percent but less than 6 percent of 51 base units, so only a 20 percent bonus would be allowed.
- A 20 percent bonus over 51 base units equals 61.2 => a maximum of 62, which is less than the project units.

Example 2

An applicant proposes a 100-unit project in a 125,000 square foot building on a 50,000 square foot lot (2.5 FAR). The project includes 5,000 square feet of retail. The maximum FAR is 1.0, allowing 50,000 square feet.

Base Units = $100 * (50,000-5,000)/(125,000-5,000) = 37.5 => 38$

The applicant's requested bonus is calculated as follows:

Requested Bonus = $(99.001 - 38) / 38 = 1.6053 = 160.53\%$

Since the project needs a minimum 160.53 percent bonus, there is no density bonus available through the State Density Bonus Law for this project, and it cannot be approved.

7. AFFORDABLE HOUSING REQUIREMENTS

A. BMR REQUIREMENTS AND DENSITY BONUS

All residential development is subject to the City of Mountain View Below-Market-Rate (BMR) Housing Program. Affordable units required by Density Bonus Law may count towards the project's on-site BMR requirement, provided that the units meet both the BMR program requirements and the requirements of Density Bonus Law. For more information regarding the BMR Housing Program, see the BMR Program Guidelines.

B. REPLACEMENT REQUIREMENTS

Government Code Section 65915(c)(3)

Residential development projects that will be demolishing existing rental units in order to develop their proposed project are required to replace those units under certain circumstances. Rental units are any units rented, advertised for rent, or offered for rent within the last five years.

NOTE: If the project is subject to SB 330, which has more expansive replacement requirements, then satisfaction of SB 330's requirements will satisfy those replacement requirements found in Density Bonus Law. These provisions of SB 330 are scheduled to expire in January 2025.

Replacement units that are subject to affordability restrictions can be used to qualify for a Density Bonus and also be used to meet the project's BMR obligations if those units meet the requirements of all three programs.

To determine if your project is subject to replacement requirements, answer the following questions:

- Have any of the existing rental units 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 within the last five years preceding the application submittal date? If yes, all units that meet this description need to be replaced.
- Have any of the existing rental units been subject to the Community Stabilization and Fair Rent Act (CSFRA) in the last five years preceding the application submittal date? If yes, all units that meet this description need to be replaced.

- Have any of the existing rental units been occupied by low- or very-low-income households in the last five years preceding the application? If yes, all units that meet this description need to be replaced. NOTE: If the incomes of the current tenants are unknown, it is presumed that at least 35.7 percent of rental units in Mountain View are rented to lower-income households.ⁱ This percentage will be applied to the units in the project to determine the number of units that need to be replaced if the incomes of the tenants are unknown.

For those units that meet any of the scenarios above, the project is required to replace the same total number of units as well as the same number of bedrooms of the existing units.

Determining Tenure for Replacement Units

For residential projects that are providing rental units, replacement units will be subject to an affordability restriction of 55 years, unless those units are also being used to satisfy the BMR program, and then the affordability restriction is in perpetuity. Income limits will be determined based on the income of the prior tenant, or, if the income is unknown, based on the presumption of lower income. For units that were subject to the CSFRA that are known or presumed to be above low-income, those units will be rented at lower income levels or subject to recontrol under the CSFRA's provisions.

For residential projects that are providing ownership units, replacement units will be subject to affordability restrictions in perpetuity. Income limits will be determined based on the income of the prior tenant, or, if the income is unknown, lower income. For units that were subject to the CSFRA that are known or presumed to be above low-income, those units will be deed-restricted and sold at lower income levels or subject to recontrol under the CSFRA's provisions.

For more information and assistance determining project specific replacement requirements, use the replacement requirements worksheet.

ⁱ Based on the U.S. Department of Housing and Urban Development Comprehensive Housing Affordability Strategy Database.

C. PROJECTS WITH RENTAL UNITS

Density Bonus Ordinance Section 36.48.85(a)

Affordable rental units provided to qualify for a Density Bonus must remain affordable for at least 55 years. If those units are also counting towards the project's BMR obligation, then the units will be affordable in perpetuity.

D. PROJECTS WITH OWNERSHIP UNITS

Density Bonus Ordinance Section 36.48.85(b)

Affordable ownership units provided to qualify for a Density Bonus must be sold at an affordable housing cost in perpetuity. For very-low- and low-income ownership units, developers are required to provide funds for a reserve account to cover future special assessments and increases in homeowners association dues for those households, such that the total annual housing cost will not exceed 30 percent of the household's annual income level for the unit over the life of the unit.

E. AFFORDABLE HOUSING AGREEMENTS

Density Bonus Ordinance Section 36.48.85(c)

An Affordable Housing Agreement is required to be recorded against the property for each development prior to issuance of any building permit for the housing development. The applicant will coordinate with the Housing and Neighborhoods Division to execute the Agreement after the project has been approved.

F. EQUAL DISTRIBUTION

Density Bonus Ordinance Section 36.48.75(f)

On-site affordable units qualifying for a density bonus need to be dispersed throughout the housing development and compatible with the design of market-rate units in terms of appearance, materials, and finished quality. For developments with multiple market-rate units containing different numbers of bedrooms, affordable units qualifying for a density bonus need to be representative of the market-rate mix. The final unit mix for the affordable units will be determined within the Affordable Housing Agreement for the project.

8. **APPLICATION REQUIREMENTS**

Density Bonus Ordinance See Section 36.48.90

9. **REQUIRED FINDINGS**

Density Bonus Ordinance Section 36.48.95 and Government Code Section 65915 (d)

DRAFT