City of Sebastopol
Planning Commission Staff Report

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Meeting Date:	February 23, 2016
Agenda Item:	8D
To:	Planning Commission
From:	Kenyon Webster, Planning Director Jonathan Atkinson, Assistant Planner
Subject:	Zoning Ordinance Revisions to Achieve Consistency with State Law
Recommendation:	Recommend City Council Adoption of Ordinance
CEQA Status:	Approved Housing Element CEQA Exemption

Introduction:

This staff report addresses several proposed Zoning Ordinance amendments that were identified in the recently-adopted Housing Element, to achieve consistency with mandatory provisions of State law.

While these changes should be accomplished, there is not a pending deadline, so if the Commission would like more time to review or discuss them, that would not be an issue at this time.

Background:

A new Housing Element was adopted by the City in March 2015. In addition to identifying a number of discretionary policy actions, including some that will involve modification of the Zoning Ordinance, the Housing Element identified several actions that are required to achieve consistency with State law.

These are mandatory changes to zoning regulations directed by the State, presumably in policy areas where the State felt there were overriding Statewide issues or needs.

The Housing Element also contains numerous other policy provisions where the City has discretion on specifics. These include provisions about 'tiny houses,' changes to parking standards, or potential provisions regarding vacation rentals. These and other discretionary policy changes will be addressed in a comprehensive Zoning Ordinance update following completion of the full General Plan process, since other Elements of the General Plan will also call for Zoning Ordinance revisions.

Proposed Amendments:

The following amendments are proposed to address the mandatory Zoning Ordinance changes:

1. **Housing Element Action G-3**. Add definitions for Transitional and Supportive Housing. The State has established specific definitions which also include some policy parameters to address these types of housing.

2. **Housing Element Action G-1.** Add allowances for farmworker housing. Various types of agricultural employee housing are required by State law to be permitted in agricultural zones. Employee housing for up to six employees is required to be treated the same as a single family home; in areas allowing agricultural uses, group housing with up to 36 beds or up to 12 units or spaces is required to be permitted. Sebastopol does have several single family zones where agricultural uses are permitted, and therefore where these allowances appear to be required. Given the nature of Sebastopol's 'agricultural' zones which are essentially large-lot single family zoning districts, these allowances are concerning. The amendment has been written to only provide these allowances for *commercial* agricultural operations.

3. **Housing Element Action G-2.** Allow homeless shelters in the General Commercial District via administrative approval rather than requiring Design Review Board approval. The State, in reviewing the City's draft Housing Element, determined that any discretionary review was not allowed under provisions of State law.

4. **Housing Element Action G-6.** Allow second dwelling units via administrative approval rather than requiring Design Review Board approval. Similar to homeless shelters, cities are required to have non-discretionary review of second dwelling units—to create objective standards and make these types of projects subject to administrative review only. Existing second unit provisions include Design Review, and also have some provisions that are subject to interpretation. The provisions would be revised to eliminate any Design Review, and to create set standards. In making revisions to the existing Sebastopol provisions, staff has attempted as much as feasible to maintain existing standards while eliminating interpretive provisions as well as provisions referencing Design Review. The key change to comply with State requirements is to eliminate the Design Review Board role; for most other standards, there is more local discretion. A 'track changes' version of the regulations is attached.

5. **Housing Element Actions D-9, G15.** Update density bonus provisions (that apply when various percentages of affordable housing are provided by a project) to be consistent with current State law. The

State has very detailed and complex provisions that localities are required to either include or reference in their zoning regulations. The newer State provisions replace provisions in the Sebastopol Zoning Ordinance that at the time enacted were also required to be consistent with State law, which has since been revised. Rather than replicating the extremely detailed provisions of State law (which is also subject to change), the proposed Zoning Ordinance amendment simply references the State provisions. The newer State provisions provide for a number of circumstances where projects can qualify for a density bonus, or for modification of other development standards (parking, setbacks, etc.), so qualifying developments have a number of potential incentives to facilitate their development.

6. **Housing Element Action G-16.** Modify Zoning Ordinance provisions for manufactured homes. The State does not want manufactured homes to be subject to more demanding standards or procedures than traditionally-constructed homes. A revised definition will reference the State requirements, but also note that otherwise, such types of dwellings are subject to all other applicable standards.

Environmental Review:

The application is categorically exempt from the requirements of the California Environmental Quality Act (CEQA). The application is consistent with this categorical exemption in that the Housing Element was determined to be exempt from CEQA Act as it met with the criteria established in Section 15061(b)(3) of the CEQA Guidelines because there would be no physical changes to the environment, and the proposed amendments implement specific policies in the Element.

General Plan Consistency:

The proposed amendments implement provisions of the adopted Housing Element, and therefore are consistent with the General Plan.

Zoning Ordinance Consistency:

The proposed amendments modify provisions of the Zoning Ordinance to achieve consistency with both State law and with specific policy provisions of the Housing Element. The amendments do not create any internal inconsistencies with other provisions of the Zoning Ordinance.

Public Comment:

The Planning Department provided a written notice regarding the proposed amendments that was published in the Sonoma West Times; and has published the meeting agenda and the staff report on the City web site, and distributed copies of the agenda and staff report to the Sebastopol Branch Library. The Planning Department has not received any comments from the public as of writing this report.

City Departmental Comment:

No City department comments on the application were received as of writing this report.

Required Findings:

Section 17.300.030 C. of the Zoning Ordinance states that in making its recommendations, the Planning Commission shall determine whether the proposed amendment:

a. Is compatible with the general objectives of the general plan and any applicable specific plan.
b. Is in conformity with public convenience, general welfare and good land use practice.
c. Will not be detrimental to the public health, safety and general welfare.
d. Will not adversely affect the orderly development of property.

Analysis:

The need for the amendments was identified in the 2015 Housing Element. They are required to achieve consistency with State law. As discussed in the Analysis section, the City has limited discretion regarding the amendments, but does have some. In particular, the Commission may wish to provide comments on revisions relating to the Second Dwelling Unit provisions since while the State requires that there be no discretionary review of such units, the City has discretion regarding specific development standards, which should be structured to ensure that units are compatible with neighborhood character.

Recommendation:

It is recommended that the Planning Commission conduct a public hearing, review and provide any comments, and recommend that the City Council approve an ordinance adopting the amendments, making the following findings:

a. The proposed amendments are compatible with the general objectives of the general plan and any applicable specific plan, in that the amendments are consistent with, and directly implement policy provisions of the adopted Housing Element of the General Plan.

b. The proposed amendments are in conformity with public convenience, general welfare and good land use practice, in that they implement policy provisions that the State of California has determined that all cities and counties in the State should follow to help address housing needs and help achieve housing policy objectives.

c. The proposed amendments will not be detrimental to the public health, safety and general welfare in that they intended to promote the public welfare by helping to address housing needs.

d. The proposed amendments will not adversely affect the orderly development of property in that they are intended to facilitate orderly development by creating housing-related allowances.

Attachments:

Draft ordinance
Second unit 'track changes' version of regulations
Copy of relevant Housing Element policies
Copy of existing Zoning Ordinance provisions (where applicable)
State law provisions for selected requirements

Ordinance No. _____

AN ORDINANCE FOR INTRODUCTION
OF THE CITY OF SEBASTOPOL, CALIFORNIA,
AMENDING THE SEBASTOPOL MUNICIPAL CODE
TO ENACT VARIOUS STATE-MANDATED CHANGES TO THE ZONING ORDINANCE
PURSUANT TO THE ADOPTED HOUSING ELEMENT

Whereas, the State of California supports provision of adequate housing to all economic segments of the community; and

Whereas, the State has adopted a number of housing-related laws, some of which require local jurisdictions to align their regulations to achieve consistency with State law; and

Whereas, the City's Housing Element of the General Plan, adopted in March 2015, identified six mandated amendments to the City's Zoning Ordinance; and

Whereas, on February 23rd, 2016, the Planning Commission conducted a duly-noticed public hearing regarding the proposed amendments and recommended their adoption; and

Whereas, on _____, 2016 the City Council received the Commission's recommendations, and conducted a public hearing.

Now, therefore, the City Council does hereby amend specified provisions of the Zoning Ordinance as follows:

1. **Housing Element Action G-3. Add definitions for Transitional and Supportive Housing.**

Rescind the existing definition of 'Transitional Housing in Municipal Code Section 17.08.121 I, and add the following definitions to Chapter 17.08 Definitions:

SUPPORTIVE HOUSING: Supportive housing means housing with no limit on length of stay, that is occupied by the target population, and that is linked to an onsite or offsite service that assists the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community. Supportive housing is considered a residential use of property, and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone.

TRANSITIONAL HOUSING: Transitional housing means buildings configured as rental housing developments, but operated under program requirements that require the termination of assistance and recirculating of the assisted unit to another eligible program recipient at a predetermined future point in time that shall be no less than six months from the beginning of the assistance. Transitional housing is considered a

residential use of property, and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone.

2. **Housing Element Action G-1. Add allowances for farmworker housing.**

Add definition of Employee housing (agricultural) to Chapter 17.08:

EMPLOYEE HOUSING (AGRICULTURAL): Employee housing (agricultural) means housing for commercial agricultural employees as described in California Health and Safety Code Sections 17021.5 and 17021.6, and employee housing as defined in California Health and Safety Code Section 17008 and the other applicable provisions of the Employees Housing Act at California Health and Safety Code Section 17000 et seq., and to include a residential safety management plan.

Add reference to this use as a permitted use in zoning districts that allow agricultural uses, including the RE, RA, RR districts:

17.16.020 A. (5) Employee Housing (Agricultural)
17.20.020 A. (5) Employee Housing (Agricultural)

17.24.020 A. (5) Employee Housing (Agricultural)

3. **Housing Element Action G-2. Allow homeless shelters in the General Commercial District via administrative approval rather than requiring Design Review Board approval.**

Modify Municipal Code Section 17.60.020 D. to read as follows:

Homeless Shelter with administrative permit review.

4. **Housing Element Action G-6. Allow second dwelling units via administrative approval rather than requiring Design Review Board approval.**

Rescind Municipal Code Section 17.110.030 in its entirety, and substitute the following:

17.110.030 Second Dwelling Unit Criteria

17.110.030 Second Dwelling Unit Criteria

A. Location: Second dwelling units may be allowed only on parcels zoned for single-family, duplex or multi-family use, or on non-residentially zoned properties, which are currently used only for a single-family residential use either simultaneous to or subsequent to construction of the principal dwelling. In addition, an existing dwelling unit that complies with the development standards for second dwelling units in Section 17.110.030(d) may be considered a second dwelling unit, and a new principal unit may be constructed, which would then be considered the principal dwelling unit.

B. Limitation: In no case shall more than one (1) second dwelling unit be placed on the same lot or parcel.

C. All requirements and regulations of the zoning district in which the lot is situated shall apply, except as set forth in section 17.110.030(d), below.

D. Conditions: The second dwelling unit may be established by the conversion of an attic, basement, garage or other portion of an existing residential unit or by new construction; a detached second dwelling unit may be established by the conversion of an accessory structure or may be established by new construction provided the following criteria are met:

1) Floor Area: The floor area of the second dwelling unit shall not exceed 840 square feet.

2) Height: The height of a one-story second unit shall not exceed 17 feet, and a two-story second unit shall not exceed 25 feet.

3) Size: Second units shall be subordinate to their principal dwelling unit in terms of size and height and shall not exceed the limits set forth herein, or the size or height of the principal dwelling, whichever is less.. A second dwelling unit created by an internal conversion of an existing single-family dwelling unit shall not occupy more than 40 percent of the habitable floor area, excluding the garage area. However, in no case shall the portion of the principal dwelling unit converted to a second to a second dwelling unit exceed 840 square feet.

4) Architecture: Second units shall be architecturally compatible with the principal unit and the neighborhood. Architectural compatibility with the existing principal unit includes coordination of colors, materials, siding, roof pitch and style, and other architectural features, and landscaping designed so that the appearance of the site remains that of a single-family residence. Variations in roofline may be permitted if the design is necessary to meet certain building code requirements, such as minimums for the living area ceiling heights.

5) Setbacks: Two-story second dwelling units and second dwelling units attached to the primary residence shall be subject to the same minimum side, front, and rear setback requirements as the primary residence. Detached one-story second dwelling units shall be subject to one-half of the primary residence side and rear setbacks, but not less than five feet.

6) Mobile Homes: Mobile homes shall not be used as second dwelling units.

7) Manufactured Homes: Manufactured second dwelling units, as certified by the State of California, shall be allowed, provided that they are constructed on a permanent foundation, are deemed compatible architecturally with the principal unit by the Planning Director, and adhere to the development standards set forth in this Chapter..

8) Utility Connections: At the discretion of the City Engineer, utility connections (sewer, water, gas, electricity, telephone) may or may not be connected to the principal dwelling unit. If utility connections are separate from the principal unit, power and telephone lines shall be underground from the point of source as approved by the respective utility purveyor to the second unit.

9) Selling Second Units: The second unit shall be not offered for sale apart from the principal unit.

10) Renting Second Units: The rental of a second unit is allowed, but not required.

11) Separate Entrance Required: The entrance to an attached second unit shall be separate from the entrance to the principal unit.

12) Applicable Codes: Second dwelling units must comply with applicable Building, Fire and other Health and Safety Codes.

13) Lot Coverage: Second dwelling units shall not be considered when calculating the maximum lot coverage allowed.

14) Off-Street Parking: One off-street parking space shall be provided per bedroom, except that units with two or fewer bedrooms shall require one parking space. The required parking may be provided in tandem to the parking for the principal unit and may be located in a required rear or side setback to within three feet of the property line, or in a driveway in the front yard setback area. Such parking spaces shall

have a dimension of at least 8 ½ feet in width and 18 feet in length if uncovered, and 10 feet of width and 20 feet in length if covered.

E. Application Procedure: Planning Director approval shall be required for all second dwelling units. The property owner shall file a completed Administrative Review application with the Planning Department and pay all applicable fees. The completed application form shall include, but not be limited to, data on the floor space and height of the proposed unit and the existing residential unit(s), a photograph of the existing residential unit(s), the height of adjacent residences, and an accurately drawn site plan showing the location and size of all existing and proposed structures, the proposed second unit, setbacks, utility connections and vehicle parking.

F. Conversion of Existing Structures into Second Units: Subject to the approval of the Planning Director, in the case of the conversion of a one-story building legally constructed prior to October 19, 2004, the rear setback shall conform to the setback requirement for an accessory building; however the structure is not required to meet the side yard setback if non-conforming. In acting on such an application, the Planning Director may impose conditions requiring physical changes in the unit to ensure conformance to physical development standards. In addition, in order to convert an accessory structure that was once used, or intended to be used, as a garage the applicant shall indicate replacement parking elsewhere on the property that meets the residential parking development standards set forth in Section § 17.220.

G. Existing Non-Permitted Second Units: The Planning Director may approve a second unit constructed without benefit of appropriate permits, provided that the unit conforms to the Uniform Housing Code, is subject to applicable current permit and impact fees, and conforms to setback, parking, height, lot coverage, area, and other physical development standards otherwise applicable, except that such units shall not be eligible for the setback allowance above regarding Conversion of Existing Structures into Second Units. In acting on such an application, the Planning Director may impose conditions requiring physical changes in the unit to ensure conformance to physical development standards, and to ensure that it has a harmonious relationship to the property and adjacent properties.

H. Second Dwelling Units shall not be counted as "development units" under the General Plan density requirements.

5. **Housing Element Actions D-9, G15. Update density bonus provisions (that apply when various percentages of affordable housing are provided by a project) to be consistent with current State law.**

Rescind Municipal Code Sections 17.240.100 and 17,240.140 in their entirety, and substitute the following:

17.240.100 Density Bonuses and Incentives

(a) The purpose and intent of this section is to establish the standards and procedures in granting affordable housing density bonuses for housing developments, in an effort to incentivize the development of affordable units in the City; and implement the requirements of the State Density Bonus Law (Government Code Chapter 4.3).
(b) Density bonuses and incentives shall be offered by the City pursuant to the provisions of Government Code Chapter 4.3.
(c) These Density Bonus and Incentives provisions shall be understood to be amended by operation of law in the event and to the extent the State Density Bonus Law is amended.

6. **Housing Element Action G-16. Modify Zoning Ordinance provisions for manufactured homes.**

Modify Municipal Code Section 17.08.114 A. to read as follows:

MANUFACTURED HOUSING: A residential building, dwelling unit or habitable room thereof, which is either wholly constructed or partially assembled on a site in accordance with the State Health and Safety Code. Architectural and design review requirements for manufactured housing shall conform to the applicable standards for other types of dwellings, but shall not exceed those allowed under Government Code Section 65852.3.

This Amendment is hereby introduced for first reading.

Introduced by the City Council on the ___ day of ___, 2016

Approved: _____
Mayor

Ayes:
Noes:
Absent:
Abstain:

Attest: _____ City Clerk

17.110.030 Second Dwelling Unit Criteria

A. Location: Second dwelling units may be allowed only on parcels zoned for single-family, duplex or multi-family use, or on non-residentially zoned properties, which are currently used only for a single-family residential use either simultaneous to or subsequent to construction of the principal dwelling. In addition, an existing dwelling unit that complies with the development standards for second dwelling units in Section 17.110.030(d) may be considered a second dwelling unit, and a new principal unit may be constructed, which would then be considered the principal dwelling unit.

B. Limitation: In no case shall more than one (1) second dwelling unit be placed on the same lot or parcel.

C. All requirements and regulations of the zoning district in which the lot is situated shall apply, except as set forth in section 17.110.030(d), below.

D. Conditions: The second dwelling unit may be established by the conversion of an attic, basement, garage or other portion of an existing residential unit or by new construction; a detached second dwelling unit may be established by the conversion of an accessory structure or may be established by new construction provided the following criteria are met:

1) Floor Area: The floor area of the second dwelling unit shall not exceed 840 square feet.

2) Height: The height of a one-story second unit shall not exceed 17 feet, and a two-story second unit shall not exceed 25 feet.

3) Size~~/Architecture~~: Second units shall be subordinate to their principal dwelling unit in terms of size and height and shall not exceed the limits set forth herein, or the size or height of the principal dwelling, whichever is less.~~,~~ ~~Second dwelling units should also be subordinate to the principal dwelling unit in terms of~~and placement on the site. A second dwelling unit created by an internal conversion of an existing single-family dwelling unit shall not occupy more than 40 percent of the habitable floor area, excluding the garage area. However, in no case shall the portion of the principal dwelling unit converted to a second to a second dwelling unit exceed 840 square feet. ~~, and shall be compatible architecturally with the principal unit and neighborhood, subject to Design Review Board approval.~~

~~3)~~4) Architecture: Second units shall be architecturally compatible with the principal unit and the neighborhood. Architectural compatibility with the existing principal unit includes coordination of colors, materials, siding, roof pitch and style, and other architectural features, and landscaping designed so that the appearance of the site remains that of a single-family residence. Variations in roofline may be permitted if the design is necessary to meet certain building code requirements, such as minimums for the living area ceiling heights.

~~4)~~5) Setbacks: Two-story second dwelling units and second dwelling units attached to the primary residence shall be subject to the same minimum side, front, and rear setback requirements as the primary residence. Detached one-story second dwelling units shall be subject to one-half of the primary residence side and rear setbacks, but not less than five feet.

~~5)~~6) Mobile Homes: Mobile homes shall not be used as second dwelling units.

~~6)~~7) Manufactured Homes: Manufactured second dwelling units, as certified by the State of California, shall be allowed, provided that they are constructed on a permanent foundation, are deemed compatible architecturally with the principal unit by the Planning

Director ~~Design Review Board~~, and adhere to the ddevelopmentesign standards set forth in this Chapter.~~Section 17.08 G, excepting the size restrictions~~.

~~7)~~8) Utility Connections~~connections~~: At the discretion of the City Engineer~~property owner~~, utility connections (sewer, water, gas, electricity, telephone) may or may not be connected to the principal dwelling unit. If utility connections are separate from the principal unit, power and telephone lines shall be underground from the point of source as approved by the respective utility purveyor to the second unit.

9) Selling Second Units: The second unit shall be not offered for sale apart from the principal unit.

10) Renting Second Units: The rental of a second unit is allowed, but not required.

~~8)~~11) Separate Entrance Required: The entrance to an attached second unit shall be separate from the entrance to the principal unit.

~~9)~~12) Applicable Codes: Second dwelling units must comply with applicable Building, Fire and other Health and Safety Codes.

~~10)~~13) Lot Coverage: Second dwelling units shall not be considered when calculating the maximum lot coverage allowed.

~~11)~~14) Off-Street Parking: One off-street parking space shall be provided per bedroom, except that units with two or fewer bedrooms shall require one parking space. The required parking may be provided in tandem to the parking for the principal unit and may be located in a required rear or side setback to within three feet of the property line, or in a driveway in the front yard setback area. Such parking spaces shall have a dimension of at least 8 ½ feet in width and 18 feet in length if uncovered, and 10 feet of width and 20 feet in length if covered.

~~D.~~ Application Procedure:

~~1)~~ Planning Director~~Design Review Board~~ approval shall be required for all ~~two-story~~ second dwelling units~~, and shall be required for one-story second dwelling units if determined appropriate by the Planning Director or if requested by an adjoining neighbor~~. The property owner shall file a completed Administrative Review application with the Planning Department and pay all applicable fees. The completed application form shall include, but not be limited to, data on the floor space and height of the proposed unit and the existing residential unit(s), a photograph of the existing residential unit(s), the height of adjacent residences, and an accurately drawn site plan showing the location and size of all existing and proposed structures, the proposed second unit, setbacks, utility connections and vehicle parking.

E.

~~1) Notice of Design Review Board review shall be provided to abutting owners of real property or their agent, and the applicant, and such notice shall be mailed or delivered at least 12 days in advance of the meeting at which the application will be considered. Notice of Planning Director review of one-story second dwelling units shall be provided to abutting owners of real property or their agent, and the applicant at least 12 days in advance of action on the application.~~

~~1) Appeals: Any person aggrieved by any action involving the approval, denial, suspension, or revocation of a Design Review Board Permit subject to this section may appeal such determination pursuant to Section 17.100.80 (E).~~

~~D. Building Permits: A building permit shall be required for any construction undertaken in furtherance of a Design Review Board Permit issued under this Section.~~

~~D. Expiration and Renewal of Use Permits: A Design Review Board Permit granted pursuant to this section shall automatically expire and shall be invalid if the use is not initiated within two (2) years from the date of approval. The Planning Director may grant one one-year extension, and an additional one-year extension may be granted by the Design Review Board if a written request for the extension is received prior to the expiration of the permit and the findings required by Section 17.110.030 (E) (1) are made.~~

~~D. Existing Non-Conforming Second Units: Legal non-conforming second units shall conform to the Housing Code but are not required to conform to the other provisions of this Section.~~

~~E.~~F. Conversion of Existing Structures into Second Units: Subject to the approval of the Planning Director~~Design Review Board~~, in the case of the conversion of a one-story building legally constructed prior to October 19, 2004, the rear setback shall conform to the setback requirement for an accessory building; however the structure is not required to meet the side yard setback if non-conforming. In acting on such an application, the Planning Director~~Design Review Board~~ may impose conditions requiring physical changes in the unit to ensure conformance to physical development standards~~, and to ensure that it has a harmonious relationship to the property and adjacent properties~~. In addition, in order to convert an accessory structure that was once used, or intended to be used, as a garage the applicant shall indicate replacement parking elsewhere on the property that meets the residential parking development standards set forth in Section § 17.220.

~~F.~~G. Existing Non-Permitted Second Units: The ~~Design Review Board~~Planning Director may approve a second unit constructed without benefit of appropriate permits, provided that the unit conforms to the Uniform Housing Code, is subject to applicable current permit and impact fees, and conforms to setback, parking, height, lot coverage, area, and other physical development standards otherwise applicable, except that such units shall not be eligible for the setback allowance above regarding Conversion of Existing Structures into Second Units. In acting on such an application, the Planning Director~~Design Review Board~~ may impose conditions requiring physical changes in the unit to ensure conformance to physical development standards, and to ensure that it has a harmonious relationship to the property and adjacent properties.

H. Second Dwelling Units shall not be counted as "development units" under the General Plan density requirements.

housing funds, when available, to help subsidize development costs to build housing units affordable to extremely low- households. City funds for this purpose include linkage fees and inclusionary housing fees. In addition, the City will work with non-profit developers to compete for Sonoma County-administered CDBG and HOME funds.

Timing: Ongoing

Responsible Entity: Planning Department, City Council

Funding Source: Department Budget (General Fund)

Action D-7: Continue to consider relaxing development standards, such as setbacks and parking requirements, and increasing densities on a project-by-project basis as a means to reduce development costs of units affordable to extremely low-income households.

Timing: Ongoing

Responsible Entity: Planning Department, Planning Commission, City Council

Funding Source: Department Budget (General Fund)

Action D-8: Regularly update in-lieu and linkage fees, or adopt an ordinance that annually updates in-lieu and linkage fees in accordance with an accepted cost index, to ensure that they accurately reflect current development costs.

Timing: Annual

Responsible Entity: Planning Department, City Manager, City Council

Funding Source: Department Budget (General Fund)

Action D-9: Continue to offer density bonuses and incentives as established by State law. Update the City's Density Bonus Ordinance to be consistent with the requirements of State law. Encourage affordable housing developers to request density bonuses and incentives in order to increase the amount of extremely low, very low, and low income units created.

Timing: 2016

Responsible Entity: Planning Department, Planning Commission, City Council

Funding Source: Department Budget (General Fund)

Action D-10: Consider the feasibility of creating a City Employee Assistance Program to provide loans to low- and moderate-income teachers and volunteer firefighters to purchase affordable housing. This program will assist in the recruitment and retention of teachers and firefighters. If sufficient funding is available, the program should be expanded to other City employees.

Timing: 2018-2020

Responsible Entity: Planning Department, City Manager, City Council

Funding Source: Department Budget (General Fund)

Action D-11: Encourage the Urban County to provide financial support for area homeless facilities and services that serve Sebastopol area residents through ESG and other available funding sources. Encourage the Sonoma County Community

Policy G-6: The City will assist new development by increasing the amount of time that issued permits remain valid.

Policy G-7: The City shall monitor its Growth Management Program to ensure that it does not adversely affect the provision of housing units for all segments of the population.

Policy G-8: The City shall monitor the combined impact of its Growth Management Program and Design Review Process on the City's ability to meet housing demand from all income groups of the population.

Policy G-9: The City will assess the project approval process to see if there are additional ways to reduce the amount of time the process requires. This assessment will recognize that the City has limited control over processing time for those projects that require a CEQA review.

Policy G-10: The City shall modify its density bonus so that it is in conformance with the State Density Bonus Law.

Action G-1: Modify the Zoning Ordinance to permit farmworker housing consistent with the requirements of State law, including Health and Safety Code Sections 17021.5 and 17021.6. The revisions will include the following:

- Permit employee housing, including mobile homes and manufactured housing, to accommodate up to six employees subject to the same standards and permit requirements as a single family residence in all zones and as a permitted use in residential zones. No discretionary actions shall be required.
- Permit employee housing, including mobile homes and manufactured housing, consisting of up to 36 beds in a group quarters or 12 units or spaces designed for use by a single family or household as an agricultural use, subject to the same standards and permit requirements as an agricultural use, in zones that permit an agricultural use consistent with the requirements of State law.

Timing: 2016-2017

Responsible Entity: Planning Department, Planning Commission, City Council

Funding Source: Department Budget (General Fund)

Action G-2: Modify the Zoning Ordinance so that homeless shelters proposed for the General Commercial (CG) District are only subject to Administrative Review as a condition of approval.

Timing: 2016-2017

Responsible Entity: Planning Department, Planning Commission, City Council

Funding Source: Department Budget (General Fund)

Action G-3: Modify the Zoning Ordinance to include definitions of Transitional and Supportive Housing which are consistent with State law. The following definitions will be used, based on language provided in the Government Code.

"Supportive housing" means housing with no limit on length of stay, that is occupied by the target population, and that is linked to an onsite or offsite service that assists the supportive housing resident in retaining the housing,

improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community. Supportive housing is considered a residential use of property, and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone.

"Target population" means persons with low incomes who have one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health condition, or individuals eligible for services provided pursuant to the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code) and may include, among other populations, adults, emancipated minors, families with children, elderly persons, young adults aging out of the foster care system, individuals exiting from institutional settings, veterans, and homeless people.

"Transitional housing" means buildings configured as rental housing developments, but operated under program requirements that require the termination of assistance and recirculating of the assisted unit to another eligible program recipient at a predetermined future point in time that shall be no less than six months from the beginning of the assistance. Transitional housing is considered a residential use of property, and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone.

Timing: In conjunction with adoption of Housing Element
Responsible Entity: Planning Department, Planning Commission, City Council
Funding Source: Department Budget (General Fund)

Action G-4: Review and revise the Zoning Ordinance to establish development standards and identify appropriate zoning districts to accommodate tiny houses. Revisions should include a clear definition of tiny houses.

Timing: 2016-2020
Responsible Entity: Planning Department, Planning Commission, City Council
Funding Source: Department Budget (General Fund)

Action G-5: Review the Zoning Ordinance to determine if modifications should be made to accommodate land trusts.

Timing: 2016-2020
Responsible Entity: Planning Department, Planning Commission, City Council
Funding Source: Department Budget (General Fund)

Action G-6: Modify the Zoning Ordinance to allow second units as a permitted use consistent with State law, increase the size allowance, and consider revisions to standards for second units related to unit height, setbacks, and other relevant standards to facilitate such units.

Timing: In conjunction with adoption of Housing Element
Responsible Entity: Planning Department, Planning Commission, City Council
Funding Source: Department Budget (General Fund)

Timing: Ongoing
Responsible Entity: Planning Department, Planning Commission, City Council
Funding Source: Department Budget (General Fund)

Action G-13: Review Sebastopol's current approval process to determine whether it is possible to make the Planning Commission the final authority for subdivisions of four or fewer parcels.

Timing: 2016-2018
Responsible Entity: Planning Department, Planning Commission, City Council
Funding Source: Department Budget (General Fund)

Action G-14: Study other ways to reduce the amount of time that project approval requires.

Timing: Ongoing
Responsible Entity: Planning Department, Planning Commission, City Council
Funding Source: Department Budget (General Fund)

Action G-15: Modify Sebastopol's density bonus policy so that it is consistent with State law, including reduced parking requirements for housing projects that are eligible to receive a density bonus.

Timing: 2016
Responsible Entity: Planning Department, Planning Commission, City Council
Funding Source: Department Budget (General Fund)

Action G-16: Revise the Zoning Ordinance so that architectural and design review requirements for a manufactured home will not exceed those allowed under Government Code Section 65852.3.

Timing: 2016-2018
Responsible Entity: Planning Department, Planning Commission, City Council
Funding Source: Department Budget (General Fund)

Action G-17: Revise the Zoning Ordinance to:

1. establish minimum density requirements for residential-only projects to ensure efficient use of land,
2. identify criteria and appropriate locations in non-residential zones for residential-only projects,
3. increase allowed building heights and reduce parking requirements in the Downtown Core to accommodate 4 stories/50 feet, and in appropriate General Commercial districts, 3 stories and 40 feet, to encourage affordable housing, higher density housing, including rental, housing cooperatives, condominiums, and other housing opportunities. Establish appropriate stepback requirements for increased number of stories beyond those currently permitted.

Timing: 2016-2018
Responsible Entity: Planning Department, Planning Commission, City Council
Funding Source: Department Budget (General Fund)

(3) Hostels

H. TRANSITIONAL COMMERCIAL SITE: A parcel of land located within the CN, C0, CG or CH District, which is adjacent to any Residential District.

I. TRANSITIONAL HOUSING: A multi-family residential use developed in an individual dwelling unit format that does not restrict occupancy to six months or less and that provides temporary accommodations to low and moderate income persons and households for periods of up to three years, and which may also provide meals, counseling, and other services, as well as common areas for residents of the facility.

J. TRANSPORT AND WAREHOUSING. Transport and Warehousing Uses include the provision of warehousing and storage, freight handling, shipping, and trucking services, and similar uses as may be determined by the Planning Commission.

17.08.122 Definitions "U"

A. UNLAWFUL SIGN: A sign which contravenes this ordinance or which a public official may declare unlawful if it becomes dangerous or a traffic hazard to public safety. A non-conforming sign for which a permit required under a previous ordinance was not obtained.

B. UTILITY CIVIC USES -Utility Civic Uses include the maintenance and operation of the following installations and similar uses as determined by the Planning Commission.

(1) Communications equipment installations and exchanges.
(2) Electrical substations.
(3) Gas substations.
(4) Water and sewer pumping and treatment facilities.
(5) Neighborhood news carrier distribution centers.
(6) Police station and fire station.
(7) Public works yards.
(8) Post offices but excluding major mail-processing centers.
(9) Publicly operated off-street parking lots and garages available to the general public either without charge or on a fee basis.
(10) Libraries.
(11) Governmental administrative offices.

17.08.123 Definitions "V"

A. VERY LOW INCOME HOUSING: Housing affordable to a household whose combined income is less than 50% of the median income for Sonoma County as established by HUD.

17.08.124 Definitions "W"

A. WALL SIGN: A sign attached to or erected against a wall of a building. Any sign affixed in such a way that its exposed face is parallel to the plane of the building.

17/08.125 Definitions "Y"

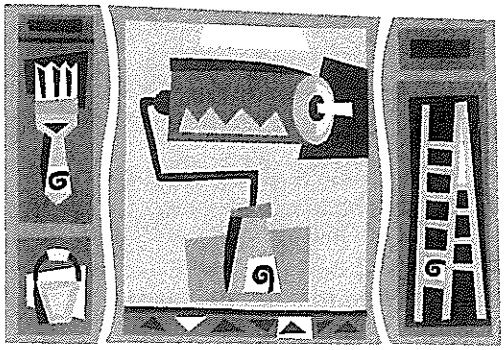
A. YARD: An open space, other than a court, on a lot with a structure, which open space is required to be unoccupied and unobstructed from the ground to the sky, except for such encroachments as are specifically permitted by this Code.

B. YARD, FRONT: A yard measured into a lot from its front lot line or lines. A required front yard shall extend the full width of the lot between its side lot lines.

C. YARD, REAR: A yard measured into a lot from its rear lot line, provided that in cases where there is no rear lot line, the rear yard shall be measured into the lot from the rearmost point of the lot depth, parallel to said lot depth. A required rear yard shall extend the full width of the lot between its side lot lines.

D. YARD, SIDE: A yard measured into a lot from one or more of its side lot lines. A required side yard shall extend between the required front yard and rear yard, or the front or rear lot lines in cases where no front yard or rear yard is required.

Chapter 17.60 CG - GENERAL COMMERCIAL DISTRICT



Sections:

17.60.010 Purpose/Applicability
17.60.020 Permitted Uses
17.60.030 Conditionally Permitted Uses
17.60.040 Maximum Size of Commercial Uses
17.60.050 Minimum Lot Area
17.60.060 Maximum Building Height
17.60.070 Minimum Building Setbacks
17.60.080 Floor Area Ratio
17.60.090 Service Station Regulations
17.60.100 Maximum Residential Density
17.60.110 Minimum Usable Open Space
17.60.120 Buffering/Screening Required
17.60.130 Other Provisions

17.60.010 Purpose/Applicability. The CG District provides areas for commercial uses with off-street parking and/or clusters of street-front stores. This zone permits primarily local-serving retail establishments, specialty shops, banks, professional offices, motels, and business and personal services that are typically appropriate along major thoroughfares. The following types of retail uses are discouraged: factory outlets; large regional-serving shopping centers; and other similar retail uses generating high traffic volumes. These regulations shall apply in the CG District.

17.60.020 Permitted Uses.
The following uses are permitted:

A. The following commercial uses:

(1) Convenience Sales and Service
(2) General Retail Sales
(3) Food Sales and Service, except as indicated in Section 17.60.030
(4) Office Uses
(5) Small Community Education Civic
(6) Specialty Retail Sales

B. Parking lots

C. Home Occupations

D. Homeless Shelter with Design Review approval.

E. Affordable housing projects

F. The following residential use type when part of a "mixed-use" development:

(1) Permanent residential uses permitted in the RM-H District
(2) Live-work dwelling units, except that Live-Work units are not permitted along the street

J. Meals may be served, however except where the City has approved a restaurant in conjunction with the use, only guests may be served. No cooking shall be allowed in guest rooms. No alcoholic beverages may be sold to guests except where the City has approved a restaurant in conjunction with the use.

K. One non-internally illuminated sign may be displayed; its size, color, text and location shall be covered by the Use Permit. The words "hotel or "motel" shall not be allowed.

17.110.030 Second Dwelling Unit Criteria

A. Location: Second dwelling units may be allowed only on parcels zoned for single-family, duplex or multi-family use, or on non-residentially zoned properties which are currently used only for residential use either simultaneous to or subsequent to construction of the principal dwelling.

B. Limitation: In no case shall more than one (1) second dwelling unit be placed on the same lot or parcel.

C. All requirements and regulations of the zoning district in which the lot is situated shall apply, except as set forth in section 17.110.030(d), below.

D. Conditions: The second dwelling unit may be established by the conversion of an attic, basement, garage or other portion of an existing residential unit or by new construction; a detached second dwelling unit may be established by the conversion of an accessory structure or may be established by new construction provided the following criteria are met:

(1) Floor Area: The floor area of the second dwelling unit shall not exceed 840 square feet.

(2) Height: The height of a one-story second unit shall not exceed 17 feet, and a two-story second unit shall not exceed 25 feet.

(3) Size/Architecture:
Second units shall be subordinate to their principal dwelling unit in terms of size, and placement on the site, and shall be compatible architecturally with the principal unit and neighborhood, subject to Design Review Board approval.

(4) Setbacks: Two-story second dwelling units and second dwelling units attached to the primary residence shall be subject to the same minimum side, front, and rear setback requirements as the primary residence. Detached one-story second dwelling units shall be subject to one-half of the primary residence side and rear setbacks, but not less than five feet.

(5) Mobile Homes: Mobile homes shall not be used as second dwelling units.

(6) Manufactured Homes:
Manufactured second dwelling units, as certified by the State of California, shall be allowed, provided that they are constructed on a permanent foundation, are deemed compatible architecturally with the principal unit by the Design Review Board, and adhere to the design standards set forth in Section 17.08 G, excepting the size restrictions.

(7) Utility connections: At the discretion of the property owner, utility connections (sewer, water, gas, electricity, telephone) may or may not be connected to the principal dwelling unit. If utility connections are separate from the principal unit, power and telephone lines shall be underground from the point of source as approved by the respective utility purveyor to the second unit.

(8) Selling Second Units:
The second unit shall be not offered for sale apart from the principal unit.

(9) Applicable Codes: Second dwelling units must comply with applicable Building, Fire and other Health and Safety Codes.

(10) Lot Coverage: Second dwelling units shall not be considered when calculating the maximum lot coverage allowed.

(11) Off-Street Parking: One off-street parking space shall be provided per bedroom, except that units with two or fewer bedrooms shall require one parking space. The required parking may be provided in tandem to the parking for the principal unit and may be located in a required rear or side setback to within three feet of the property line, or in a driveway in the front yard setback area. Such parking spaces shall have a dimension of at least 8 ½ feet in width and 18 feet in length if uncovered, and 10 feet of width and 20 feet in length if covered.

E. Application Procedure:

(1) Design Review Board approval shall be required for all two-story second dwelling units, and shall be required for one-story second dwelling units if determined appropriate by the Planning Director or if requested by an adjoining neighbor. The property owner shall file a completed Design Review application with the Planning Department and pay all applicable fees. The completed application form shall include, but not be limited to, data on the floor space of the proposed unit and the existing residential unit(s), a photograph of the existing residential unit(s), the height of adjacent residences, and an accurately drawn site plan showing the location and size of all existing and proposed structures, the proposed second unit, setbacks, utility connections and vehicle parking.

(2) Notice of Design Review Board review shall be provided to abutting owners of real property or their agent, and the applicant, and such notice shall be mailed or delivered at least 12 days in advance of the meeting at which the application will be considered. Notice of Planning Director review of one-story second dwelling units shall be provided to abutting owners of real property or their agent, and the applicant at least 12 days in advance of action on the application.

(3) Appeals: Any person aggrieved by any action involving the approval, denial, suspension, or revocation of a Design Review Board Permit subject to this section may appeal such determination pursuant to Section 17.100.80 (E).

F. Building Permits: A building permit shall be required for any construction undertaken in furtherance of a Design Review Board Permit issued under this Section.

G. Expiration and Renewal of Use Permits: A Design Review Board Permit granted pursuant to this section shall automatically expire and shall be invalid if the use is not initiated within two (2) years from the date of approval. The Planning Director may grant one one-year extension, and an additional one-year extension may be granted by the Design Review Board if a written request for the extension is received prior to the expiration of the permit and the findings required by Section 17.110.030 (E) (1) are made.

A. Existing Non-Conforming Second Units: Legal non-conforming second units shall conform to the Housing Code but are not required to conform to the other provisions of this Section.

I. Conversion of Existing Structures into Second Units: Subject to the approval of the Design Review Board, in the case of the conversion of a one-story building legally constructed prior to October 19, 2004, the rear setback shall conform to the setback requirement for an accessory building; however the structure is not required to meet the side yard setback if non-conforming. In acting on such an application, the Design Review Board may impose conditions requiring physical changes in the unit to ensure conformance to physical development standards, and to ensure that it has a harmonious relationship to the property and adjacent properties. In addition, in order to convert an accessory structure that was once used, or intended to be used, as a garage the applicant shall indicate replacement parking elsewhere on the property that meets the residential parking development standards set forth in Section § 17.220.

J. Existing Non-Permitted Second Units: The Design Review Board may approve a second unit constructed without benefit of appropriate permits, provided that the unit conforms to the Uniform Housing Code, is subject to applicable current permit and impact fees, and conforms to setback, parking, height, lot coverage, area, and other physical development standards otherwise applicable, except that such units shall not be eligible for the setback allowance above regarding Conversion of Existing Structures into Second Units. In acting on such an application, the Design Review Board may impose conditions requiring physical

changes in the unit to ensure conformance to physical development standards, and to ensure that it has a harmonious relationship to the property and adjacent properties.

K. Second Dwelling Units shall not be counted as "development units" under the General Plan density requirements.

17.110.040 Transitional Commercial Sites Criteria

The following criteria shall be applied to commercial developments located next to any "R" district property.

A. Outdoor uses shall not be permitted unless such outdoor uses are mitigated in a manner acceptable to the Planning Commission.

B. Hours of operation shall be limited to 7:00 a.m. - 10:00 p.m., including delivery and service, unless longer hours are mitigated in a manner acceptable to the Planning Commission.

C. Uses which generate excessive noise, such as from machinery, amplified music, etc. shall not be permitted, unless within a sound proof structure which would shield adjacent residential properties from such noise.

D. Outdoor lighting shall be shielded from adjacent residential properties and shall not "spill over" onto any adjacent property. Adjacent properties shall be screened from potential light or glare from automobile headlights.

E. Vehicular access shall be from streets other than those serving the adjacent residential district, unless other access is mitigated in a manner acceptable to the Planning Commission.

F. Uses which may discharge smoke and/or odor shall not be permitted, unless such discharge is mitigated in a manner acceptable to the Planning Commission.

G. Perimeter side and rear property lines shall be screened from adjacent residential districts by solid fencing of six feet in height. Dense landscaping, including trees, shall be required along said property edges.

H. Uses which include the use, storage, processing or other handling of hazardous and/or toxic substances shall not be allowed.

I. Trash and recycling enclosures shall be required for all uses, and shall be located away from the adjacent residential district. On-site trash enclosures shall allow for convenient disposal of trash and debris, and shall be secured for such uses as animal hospitals or other uses which may dispose of hazardous items. For uses such as drive-in restaurants, which may result in off-site litter, a program of off-site litter clean-up shall be required, which program may include:

(1) Frequency of clean-up
(2) Geographical extent of clean-up
(3) Additional on-site receptacles

17.110.050 Small Wind Turbine Tower Criteria

The following criteria shall be applied to small wind energy conversion systems consisting of a wind turbine, a tower and associated control or conversion electronics which will be used primarily to reduce or offset on-site consumption of utility power.

A. Tower height shall be calculated from height above grade of the fixed portion of the tower, excluding the wind turbine.

B. A Use Permit shall be required for all Small Wind Turbine Towers.

C. Applications shall include a site plan and elevations including certification thereof by a California-licensed profession mechanical, structural, or civil engineer.

(d) Use of funds. Any funds received from fee payments shall be placed in a reserve account used for the exclusive purpose of providing housing affordable to low and moderate-income households in the City of Sebastopol.

17.240.080 Deed Restrictions.

(a) When inclusionary units are required, a deed restriction shall be recorded setting forth the applicable restrictions in this Chapter. The minimum period of affordability for inclusionary units in rental developments shall be as set forth below:

(b) Except as may be otherwise provided in Section 17.240.100, inclusionary units shall be required to maintain affordability for a minimum period of fifty-nine (59) years or for a different period when required by the City or by State law. A program to assure affordability for these units for this period of time shall be administered by the City or by a non-profit housing agency approved by the City. The applicant shall enter into an agreement with the City or its designee to provide monitoring and to assure affordability of the inclusionary units for a period of not less than fifty-nine (59) years from the effective date of occupancy. The City Manager shall be authorized to enter into such agreement on behalf of the City. The approved agreement shall be recorded with the Sonoma County Recorder prior to issuance of a building permit for the project.

(1) All buyers of "for sale" inclusionary units shall enter into a Resale Agreement with the City or its designee prior to the close of escrow for such inclusionary unit. A standard form Resale Agreement instrument shall be reviewed and approved by the City Council. The Resale Agreement shall specify the required affordability term, shall provide for an option for the City or its designee to designate an eligible purchaser and shall provide the City or its designee with first right of refusal to purchase the unit, and shall provide for a calculation of future equity assignment upon sale of the unit. Such agreement shall be recorded against each lot or unit.

(2) Conversion of an inclusionary rental unit to a "for sale" unit, if otherwise permitted, shall not void any provisions of applicable inclusionary housing agreements or requirements.

17.240.090 Monitoring of Inclusionary Units

Each owner of any rental inclusionary units shall submit an annual report to the Planning Department, no later than March 1, for the previous calendar year, identifying monthly rental rates, vacancy status of each inclusionary unit, income status for each resident and any other related data deemed necessary by the City while ensuring privacy for all residents. The deed restriction for ownership units shall require a conformance report upon sale of ownership inclusionary units.

17.240.100 Incentives.

It is the intent of this Ordinance that the requirements for inclusionary units not be contingent upon the availability of government subsidies. This is not to preclude the use of such programs and subsidies. This Ordinance is also not intended to cause an undue burden on the developers of residential projects. Therefore, incentives are given as outlined below to provide inclusionary units:

5

(a) Pursuant to the California Government Code, Section 65915, when a developer of housing proposes a housing development, the city shall provide the developer incentives for the production of lower income housing units within the development if the developer meets the requirements set forth in subdivisions (b) and (c).

(b) Density Bonuses and Incentives:

(1) When a developer of housing agrees or proposes to construct at least (1) 20% percent of the total units of a housing development for lower income households, as defined in Section 50079.5 of the Health and Safety Code, or (2) 10 percent of the total units of a housing development for very low income households, as defined in Section 50105 of the Health and Safety Code, or (3) 50 percent of the total dwelling units of a housing development for qualifying residents, as defined in Section 51.3 of the Civil Code, or (4) the number of units conforming to the inclusionary percentage mandated by this ordinance, the city shall either (1) grant a density bonus of 25% and TWO of the concessions or incentives identified in subsection (h) unless the city makes a written finding that the additional concession or incentive is not required in order to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for

rents for the targeted units to be set as specified in subdivision (c), or (2) provide other incentives of equivalent financial value based upon the land cost per dwelling unit.

(2) When a developer of housing agrees or proposes to construct both 20% of the total units for lower income households, as defined in Section 50079.5 of the Health and Safety Code and 10% of the total units for very low income households, as defined in Section 50105 of the Health and Safety Code, the city shall either (1) grant a local density bonus of 45% percent and THREE of the concessions or incentives identified in subsection (h) unless the city makes a written finding that the additional concession or incentive is not required in order to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subsection (c), or (2) provide other incentives of equivalent financial value based upon the land cost per dwelling unit.

(c) A developer shall agree to, and the city shall ensure, continued affordability of all lower income density bonus units for a minimum of 59 years or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program. For projects receiving a density bonus, those units targeted for lower income households, as defined in Section 50079.5 of the Health and Safety Code, shall be affordable at a rent that does not exceed 30% of 80% of area median income. For projects receiving a density bonus, those units targeted for very low-income households, as defined in Section 50105 of the Health and Safety Code, shall be affordable at a rent that does not exceed 30% of 50% of area median income.

(d) A developer may submit to the city a preliminary proposal for the development of housing pursuant to this section prior to the submittal of any formal requests for general plan amendments, zoning amendments, or subdivision map approvals. The city shall, within 90 days of receipt of a written proposal, notify the housing developer in writing of the procedures under which it will comply with this section. The city shall establish procedures for carrying out this section, which shall include legislative body approval of the means of compliance with this section. The city shall also establish procedures for waiving or modifying development and zoning standards that would otherwise inhibit the utilization of the density bonus on specific sites. These procedures shall include, but not be limited to, such items as minimum lot size, side yard setbacks, and placement of public works improvements.

(e) The housing developer shall show that the waiver or modification is necessary to make the housing units economically feasible.

(f) For the purposes of this chapter, a "density bonus" means a density increase of at least 25%, unless a lesser percentage is elected by the developer, over the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the general plan as of the date of application by the developer to the city. The granting of a density bonus shall not be interpreted, in and of itself, to require a general plan amendment, zoning change, or other discretionary approval. The density bonus shall not be included when determining the number of housing units which is equal to 10 or 20 % of the total. The density bonus shall apply to housing developments consisting of five or more dwelling units.

(g) A "housing development" as used in this section, means one or more groups of projects for residential units constructed in the planned development of a city, county, or city and county. For the purposes of this section, Ahousing development also includes either (1) a project to substantially rehabilitate and convert an existing commercial building to residential use, or (2) the substantial rehabilitation of an existing multifamily dwelling, as defined in subdivision (d) of Section 65863.4, where the result of the rehabilitation would be a net increase in available residential units. For the purpose of calculating a density bonus, the residential units do not have to be based upon individual subdivision maps or parcels. The density bonus shall be permitted in geographic areas of the housing development other than the areas where the units for the lower income households are located.

(h) For the purposes of this ordinance, concession or incentive means any of the following:

1) eliminate any requirement for covered parking;
2) allow a 10% increase in permitted lot coverage;
3) reduce the number of required parking spaces by 10%;
4) reduce the rear yard setback by 10%;
5) allow a 10% increase in height in feet;
6) reduce the requirement for useable open space by 10%;

7) reduce the Traffic Impact Fee and the Parks Impact Fee for the inclusionary unit(s) by 50% if the City Community Development Agency has available affordable housing monies to make up the difference to these funds;
8) other modifications to the location of improvements for the project agreed to by the developer and the city;
9) Approval of mixed use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if the commercial, office, industrial, or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located; and
10) Other regulatory incentives or concessions proposed by the developer or the city, that result in identifiable cost reductions.

This subdivision does not limit or require the provision of direct financial incentives for the housing development, including the provision of
publicly owned land, by the city, county, or city and county, or the waiver of fees or dedication requirements

(i) Fast-tracking. The City shall expedite, whenever possible and appropriate, the processing of residential developments or land subdivisions which meet the requirements of this Ordinance.

(j) Reduction in Required Square Footage of Lots (Small Lot Provision). The City shall allow reduced lot sizes and alternate lot configurations in single-family and duplex-family residential subdivisions pursuant to Zoning Code Sections 17.24.050, 17.28.070 and 17.30.080 in order to help meet the inclusionary requirement of this Ordinance, provided that such sizes and configurations are found not to cause undue environmental impacts, and are generally compatible with surrounding land uses.

17.240.110 Inclusionary Housing Submittal Requirements.
As part of any submittal to the City of Sebastopol for the construction of three (3) or more new dwelling units, or for the division or subdivision of land into three (3) or more lots for residential use, each applicant shall include information as to the total number of housing units included within the application; the proposed sale or rental prices of the inclusionary units; identification of the agency which will monitor occupancy and continued affordability of the inclusionary units for the amount of time specified by this Ordinance; and any other information deemed necessary by the City. It shall be the responsibility of the developer to negotiate any needed agreement with the monitoring agency to comply with Section 17.240.080.

17.240.120 Modification of Requirements, Hardship.
(a) After receiving a recommendation from the Planning Commission, the City Council may modify the requirements of the inclusionary provisions on a project basis upon submittal of a written request on a form established by the Planning Department for an exception and payment of the applicable fee equal to that for a Variance by the developer, if the Council finds that alternate requirements will achieve the intent of the inclusionary program and are consistent with the General Plan.

(b) After receiving a recommendation from the Planning Commission, the City Council may modify the requirements of the inclusionary provisions on a project basis upon submittal of a written request on a form established by the Planning Department for an hardship exception and payment of the applicable fee equal to that for a Variance by the developer, if the Council finds that due to the particular circumstances as documented by the applicant, an undue hardship or a legal taking under the California or Federal constitutions would be imposed on the project, and that an alternative requirement will appropriately address the intent of the inclusionary program. If the Council so determines, the inclusionary requirement for the project shall be modified to reduce the obligations otherwise applicable to the extent and only to the extent necessary to avoid a hardship or taking. The applicant shall bear the burden of presenting substantial evidence to support the hardship determination.

17.240.130 Appeals and Enforcement.
(a) Application of requirements. The provisions of this Ordinance shall apply to all agents, successors and assignees of an applicant or developer. No planning permit shall be issued after the effective date of this Ordinance for any project which does not meet the requirements of this Ordinance.

(b) Violations. Any person, firm or corporation, whether as principal, agent, employee or otherwise, violating or causing the violation of any of the provisions of this Ordinance, shall be guilty of a

misdemeanor, and shall be deemed to be guilty of a separate offense during each and every day during any portion of which any violation of this Ordinance is commenced, continued or permitted by such person, firm or corporation.

(c) Appeal to Planning Commission. Any person aggrieved by any action involving denial, suspension or revocation of a building permit or denial, suspension or revocation of any development approval may appeal such determination to the Planning Commission, with further appeal possible to the City Council, upon payment of the applicable appeal fee.

(d) Appeal to City Council. Any applicant or other person who contends that his or her interests are adversely affected by a determination or requirement of the City or its designee in regard to this Ordinance and is not satisfied with the decision of the Planning Commission may appeal to the City Council upon payment of the applicable appeal fee. The appeal shall set forth specifically wherein the action of the City or its designee fails to conform to the provisions of this Ordinance thereby adversely affection the applicant's or other person's interests. The City Council may reverse or modify any determination or requirement of the City or its designee if it finds that the action under appeal does not conform to the provisions of this Ordinance.

(e) Severability. The City Council declares that every section, paragraph, clause and phrase of this Ordinance is severable. If, for any reason, any provision of the ordinance is held to be invalid, such invalidity shall not affect the validity of the remaining provisions.

(f) Effective date. This Ordinance shall be in full force and effect thirty (30) days after its passage.

17.240.140 Density Bonus Allowance

A. A developer of housing agreeing to construct at least:

(1) 20 percent of the units for low income households; or

(2) 10 percent of the units for very low income households; or

(3) 50 percent of the units for senior citizens; or

(4) 20 percent of the units with three or more bedrooms for large families with very low to moderate incomes shall be offered a density bonus of 25 percent of the maximum number of residential dwelling units that are allowed under the general plan land use designation for the subject property in addition to the dwelling units actually approved on the project and at least one of the concessions or incentives identified in Government Code Section 65915(h) or be provided other incentives or equivalent value based upon land cost per dwelling unit, unless the City makes a written finding that the additional concession or incentive is not required in order to provide affordable housing.

B. A developer of housing agreeing to construct at least 20 percent of the units for very low and low income households of which at least 25 percent must be for very low income households shall be offered a density bonus of 45 percent of the maximum number of residential dwelling units that are allowed under the general plan land use designation for the subject property in addition to the dwelling units actually approved on the project and at least one of the concessions or incentives identified in Government Code Section 65915(h) or be provided other incentives or equivalent value based upon land cost per dwelling unit, unless the City makes a written finding that the additional concession or incentive is not required in order to provide affordable housing.

This density bonus shall apply only to the following zoning districts: RM-M, RM-H, O, CO, CG and PC, not including properties with an original base zoning district other than those listed above.

17.240.150 Accessible Units For The Physically Handicapped

New multi-family residential projects with five or more units shall be required as a condition of project approval to provide at least 10 percent of new units to be built accessible for disabled persons consistent with federal and state laws.

(1) Lot line, front -- the line separating the lot from the street. In the case of a corner lot, the front line is the shorter of any two adjacent street lot lines.
(2) Lot line, rear -- the line opposite to, and most distant from, the front lot line, other than a side lot line.
(3) Lot line, side -- a lot line which is neither a front or rear lot line.

M. LOT WIDTH: The horizontal distance between the side lot lines, measured at right angles to the lot depth at a point midway between the front and the rear lot lines.

N. LOW INCOME HOUSING: Housing that is affordable to a household whose combined income is at or between 50% to 80% of the median income for Sonoma County, as established by HUD.

O. LUMBER YARD: An area used for the storage, distribution, and sale of lumber and lumber products, but not including the manufacture, re-manufacture, or fabrication of lumber, lumber products or firewood.

17.08.114 Definitions "M"

A. MANUFACTURED HOUSING: A residential building, dwelling unit or habitable room thereof, which is either wholly constructed or partially assembled on a site in accordance with Sections 1990 et. seq. of the State Health and Safety Code.

B. MAXIMUM CREDIBLE EARTHQUAKE: The maximum earthquake predicted to affect a given location based on the known lengths of the active faults in the vicinity.

C. MEMORIAL SIGN: A sign, table or plaque memorializing a person, event, structure or site.

D. MEZZANINE: An intermediate floor, placed within a room, open to a room below it, the area of which does not exceed one-third of the floor below. A mezzanine shall not be considered a story.

E. MINOR ANTENNA: Means any of the following:

(1) A ground or building mounted receive-only radio or television antenna including any mast;
(2) A ground or building mounted citizens band radio antenna including any mast;
(3) A single ground or building mounted whip (omni) antenna without a reflector less than 4 inches in diameter whose total height includes any mast to which it is attached;
(4) A ground or building mounted panel antenna with a face area of less than 4 1/2 square feet;
(5) A ground or building mounted satellite dish no greater than 10 feet in diameter; or
(6) A ground, building, or tower mounted antenna operated by a federally licensed amateur radio operator as part of the Amateur Radio Service.

F. MIXED USE RESIDENTIAL: Mixed Use Residential uses include the allowance of permanent residential uses such as multiple family residences or live-work dwelling units in conjunction with non-residential uses allowed in the zoning district; or in the case of Planned Community projects as a separate but integral part of a commercial and/or industrial development, and where generally, the residential square footage does not exceed more than 75%, nor less than 25% of the square footage of the project.

G. MOBILE HOME: A structure transportable in one or more sections which, in the traveling mode, is eight feet or more in width, or forty feet or more in length, or, when erected, is 650 or more square feet in area, and which is built on a permanent chassis.

H. MOBILE HOME PARK: An area or parcel of land where one or more mobile home lots are rented or held out for rent.

I. MODERATE INCOME HOUSING: Housing affordable to households whose combined income is above 80% and at or below 120% of the median income for Sonoma County, as established by HUD.

J. MODULAR SIGN: A free-standing or projecting sign, other than a double-faced sign, which has more than one sign face.

K. MOTEL: See "hotel".



HEALTH AND SAFETY CODE - HSC

DIVISION 13. HOUSING [17000 - 19997] *(Division 13 enacted by Stats. 1939, Ch. 60.)*

PART 1. EMPLOYEE HOUSING ACT [17000 - 17062.5] *(Part 1 added by Stats. 1979, Ch. 62.)*

CHAPTER 2. Application and Scope [17020 - 17024] *(Chapter 2 added by Stats. 1979, Ch. 62.)*

17021.5. (a) Any employee housing which has qualified, or is intended to qualify, for a permit to operate pursuant to this part may invoke the provisions of this section.

(b) Any employee housing providing accommodations for six or fewer employees shall be deemed a single-family structure with a residential land use designation for the purposes of this section. For the purpose of all local ordinances, employee housing shall not be included within the definition of a boarding house, rooming house, hotel, dormitory, or other similar term that implies that the employee housing is a business run for profit or differs in any other way from a family dwelling. No conditional use permit, zoning variance, or other zoning clearance shall be required of employee housing that serves six or fewer employees that is not required of a family dwelling of the same type in the same zone. Use of a family dwelling for purposes of employee housing serving six or fewer persons shall not constitute a change of occupancy for purposes of Part 1.5 (commencing with Section 17910) or local building codes.

(c) Except as otherwise provided in this part, employee housing that serves six or fewer employees shall not be subject to any business taxes, local registration fees, use permit fees, or other fees to which other family dwellings of the same type in the same zone are not likewise subject. Nothing in this subdivision shall be construed to forbid the imposition of local property taxes, fees for water services and garbage collection, fees for normal inspections, local bond assessments, and other fees, charges, and assessments to which other family dwellings of the same type in the same zone are likewise subject. Neither the State Fire Marshal nor any local public entity shall charge any fee to the owner, operator or any resident for enforcing fire inspection regulations pursuant to state law or regulation or local ordinance, with respect to employee housing which serves six or fewer persons.

(d) For the purposes of any contract, deed, or covenant for the transfer of real property, employee housing which serves six or fewer employees shall be considered a residential use of property and a use of property by a single household, notwithstanding any disclaimers to the contrary. For purposes of this section, "employee housing" includes employee housing defined in subdivision (b) of Section 17008, even if the housing accommodations or property are not located in a rural area, as defined by Section 50101.

(e) The Legislature hereby declares that it is the policy of this state that each county and city shall permit and encourage the development and use of sufficient numbers and types of employee housing facilities as are commensurate with local needs. This section shall apply equally to any charter city, general law city, county, city and county, district and any other local public entity.

(Amended by Stats. 1993, Ch. 952, Sec. 1. Effective January 1, 1994.)



HEALTH AND SAFETY CODE - HSC

DIVISION 13. HOUSING [17000 - 19997] *(Division 13 enacted by Stats. 1939, Ch. 60.)*

PART 1. EMPLOYEE HOUSING ACT [17000 - 17062.5] *(Part 1 added by Stats. 1979, Ch. 62.)*

CHAPTER 2. Application and Scope [17020 - 17024] *(Chapter 2 added by Stats. 1979, Ch. 62.)*

17021.6. (a) The owner of any employee housing who has qualified or intends to qualify for a permit to operate pursuant to this part may invoke this section.

(b) Any employee housing consisting of no more than 36 beds in a group quarters or 12 units or spaces designed for use by a single family or household shall be deemed an agricultural land use for the purposes of this section. For the purpose of all local ordinances, employee housing shall not be deemed a use that implies that the employee housing is an activity that differs in any other way from an agricultural use. No conditional use permit, zoning variance, or other zoning clearance shall be required of this employee housing that is not required of any other agricultural activity in the same zone. The permitted occupancy in employee housing in a zone allowing agricultural uses shall include agricultural employees who do not work on the property where the employee housing is located.

(c) Except as otherwise provided in this part, employee housing consisting of no more than 36 beds in a group quarters or 12 units or spaces designed for use by a single family or household shall not be subject to any business taxes, local registration fees, use permit fees, or other fees to which other agricultural activities in the same zone are not likewise subject. This subdivision does not forbid the imposition of local property taxes, fees for water services and garbage collection, fees for normal inspections, local bond assessments, and other fees, charges, and assessments to which other agricultural activities in the same zone are likewise subject. Neither the State Fire Marshal nor any local public entity shall charge any fee to the owner, operator, or any resident for enforcing fire inspection regulation pursuant to state law or regulations or local ordinance, with respect to employee housing consisting of no more than 36 beds in a group quarters or 12 units or spaces designed for use by a single family or household.

(d) For the purposes of any contract, deed, or covenant for the transfer of real property, employee housing consisting of no more than 36 beds in a group quarters or 12 units or spaces designed for use by a single family or household shall be considered an agricultural use of property, notwithstanding any disclaimers to the contrary. For purposes of this section, "employee housing" includes employee housing defined in subdivision (b) of Section 17008, even if the housing accommodations or property are not located in a rural area, as defined by Section 50101.

(e) The Legislature hereby declares that it is the policy of this state that each county and city shall permit and encourage the development and use of sufficient numbers and types of employee housing facilities as are commensurate with local need. This section shall apply equally to any charter city, general law city, county, city and county, district, and any other local public entity.

(f) If any owner who invokes the provisions of this section fails to maintain a permit to operate pursuant to this part throughout the first 10 consecutive years following the issuance of the original certificate of occupancy, both of the following shall occur:

(1) The enforcement agency shall notify the appropriate local government entity.

(2) The public agency that has waived any taxes, fees, assessments, or charges for employee housing pursuant to this section may recover the amount of those taxes, fees, assessments, or charges from the landowner, less 10 percent of that amount for each year that a valid permit has been maintained.

(g) Subdivision (f) shall not apply to an owner of any prospective, planned, or unfinished employee housing facility who has applied to the appropriate state and local public entities for a permit to construct or operate pursuant to this part prior to January 1, 1996.

(Amended by Stats. 2011, Ch. 74, Sec. 1. Effective January 1, 2012.)

HEALTH AND SAFETY CODE - HSC

DIVISION 13. HOUSING [17000 - 19997] *(Division 13 enacted by Stats. 1939, Ch. 60.)*

PART 1. EMPLOYEE HOUSING ACT [17000 - 17062.5] *(Part 1 added by Stats. 1979, Ch. 62.)*

CHAPTER 1. General Provisions and Definitions [17000 - 17011] *(Chapter 1 added by Stats. 1979, Ch. 62.)*

17008. (a) "Employee housing," as used in this part, means any portion of any housing accommodation, or property upon which a housing accommodation is located, if all of the following factors exist:

(1) The accommodations consist of any living quarters, dwelling, boardinghouse, tent, bunkhouse, maintenance-of-way car, mobilehome, manufactured home, recreational vehicle, travel trailer, or other housing accommodations, maintained in one or more buildings or one or more sites, and the premises upon which they are situated or the area set aside and provided for parking of mobilehomes or camping of five or more employees by the employer.

(2) The accommodations are maintained in connection with any work or place where work is being performed, whether or not rent is involved.

(b) (1) "Employee housing," as used in this part, also includes any portion of any housing accommodation or property upon which housing accommodations are located, if all of the following factors exist:

(A) The housing accommodations or property are located in any rural area, as defined by Section 50101.

(B) The housing accommodations or property are not maintained in connection with any work or workplace.

(C) The housing accommodations or property are provided by someone other than an agricultural employer, as defined in Section 1140.4 of the Labor Code.

(D) The housing accommodations or property are used by five or more agricultural employees of any agricultural employer or employers for any of the following:

(i) Temporary or seasonal residency.

(ii) Permanent residency, if the housing accommodation is a mobilehome, manufactured home, travel trailer, or recreational vehicle.

(iii) Permanent residency, if the housing accommodation is subject to the State Housing Law and is more than 30 years old and at least 51 percent of the structures in the housing accommodation, or 51 percent of the accommodation if not separated into units, are occupied by agricultural employees.

(E) "Employee housing" does not include a hotel, motel, inn, tourist hotel, multifamily dwelling, or single-family house if all of the following factors exist:

(i) The housing is offered and rented to nonagricultural employees on the same terms that it is offered and rented to agricultural employees.

(ii) None of the occupants of the housing are employed by the owner or property manager of the housing or any party with an interest in the housing.

(iii) None of the occupants of the housing have rent deducted from their wages.

(iv) The owner or property manager of the housing is not an agricultural employer as defined in Section 1140.4 of the Labor Code, or an agent, as it relates to the housing in question, of an agricultural employer.

(v) Negotiation of the terms of occupancy of the housing is conducted between each occupant and the owner of the housing or between each occupant and a manager of the property who is employed by the owner of the housing.

(vi) The occupants are not required to live in the housing as a condition of employment or of securing employment and the occupants are not referred to live in the housing by the employer of the occupants, the agent of the employer of the occupants, or an agricultural employer as defined in Section 1140.4 of the Labor Code.

(vii) The housing accommodation was not at any time prior to January 1, 1984, employee housing as defined in subdivision (a).

(2) "Employee housing," as defined by this subdivision, does not include a hotel, motel, inn, tourist hotel, or permanent housing as defined by subdivision (d) of Section 17010, which has not been maintained, prior to January 1, 1984, or is not maintained on or after that date, as employee housing, as defined in subdivision (a).

(3) If at any time prior to January 1, 1984, a housing accommodation was employee housing, as defined in subdivision (a), and on or after January 1, 1984, was employee housing, as defined in this subdivision, the owner and operator shall comply with all requirements of this part. The owner and operator of any other housing accommodation which is employee housing pursuant to this subdivision shall be subject to the licensing and inspection provisions of this part and shall comply with all other provisions of this part, except that if any portion of the housing accommodation is held out for rent or lease to the general public, the construction and physical maintenance standards of the housing accommodation shall be consistent with the applicable provisions of the State Housing Law, Part 1.5 (commencing with Section 17910), the Mobilehome-Manufactured Homes Act, Part 2 (commencing with Section 18000); or the Mobilehome Parks Act, Part 2.1 (commencing with Section 18200). The owner or operator of the employee housing shall designate all units or spaces which are employee housing, as defined in this subdivision, for the purpose of inspection and licensing by the enforcement agency, subject to confirmation by the enforcement agency, based on all relevant evidence.

(c) "Employee housing" does not include employee community housing, as defined by Section 17005.5, which has been granted an exemption pursuant to Section 17031.3; housing, and the premises upon which it is situated, owned by a public entity; or privately owned housing, including ownership by a nonprofit entity, and the premises upon which it is situated, financed with public funds equaling 50 percent or more of the original development or purchase cost.

(d) "Employee housing" means the same as "labor camp," as that term may be used in this or other codes and, notwithstanding any local ordinance to the contrary in a general law or charter city, county, or city and county, shall be deemed a residential use if it exists in structures that are single-family houses or apartment houses as those terms are used in the State Housing Law (Part 1.5 (commencing with Section 17910)).

(Amended by Stats. 1995, Ch. 561, Sec. 1. Effective January 1, 1996.)

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GOVERNMENT CODE - GOV

TITLE 7. PLANNING AND LAND USE [65000 - 66499.58] *(Heading of Title 7 amended by Stats. 1974, Ch. 1536.)*

DIVISION 1. PLANNING AND ZONING [65000 - 66103] *(Heading of Division 1 added by Stats. 1974, Ch. 1536.)*

CHAPTER 4.3. Density Bonuses and Other Incentives [65915 - 65918] *(Chapter 4.3 added by Stats. 1979, Ch. 1207.)*

65915. (a) When an applicant seeks a density bonus for a housing development within, or for the donation of land for housing within, the jurisdiction of a city, county, or city and county, that local government shall provide the applicant with incentives or concessions for the production of housing units and child care facilities as prescribed in this section. All cities, counties, or cities and counties shall adopt an ordinance that specifies how compliance with this section will be implemented. Failure to adopt an ordinance shall not relieve a city, county, or city and county from complying with this section.

(b) (1) A city, county, or city and county shall grant one density bonus, the amount of which shall be as specified in subdivision (f), and incentives or concessions, as described in subdivision (d), when an applicant for a housing development seeks and agrees to construct a housing development, excluding any units permitted by the density bonus awarded pursuant to this section, that will contain at least any one of the following:

(A) Ten percent of the total units of a housing development for lower income households, as defined in Section 50079.5 of the Health and Safety Code.

(B) Five percent of the total units of a housing development for very low income households, as defined in Section 50105 of the Health and Safety Code.

(C) A senior citizen housing development, as defined in Sections 51.3 and 51.12 of the Civil Code, or a mobilehome park that limits residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the Civil Code.

(D) Ten percent of the total dwelling units in a common interest development, as defined in Section 4100 of the Civil Code, for persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code, provided that all units in the development are offered to the public for purchase.

(2) For purposes of calculating the amount of the density bonus pursuant to subdivision (f), an applicant who requests a density bonus pursuant to this subdivision shall elect whether the bonus shall be awarded on the basis of subparagraph (A), (B), (C), or (D) of paragraph (1).

(3) For the purposes of this section, "total units" or "total dwelling units" does not include units added by a density bonus awarded pursuant to this section or any local law granting a greater density bonus.

(c) (1) An applicant shall agree to, and the city, county, or city and county shall ensure, the continued affordability of all very low and low-income rental units that qualified the applicant for the award of the density bonus for 55 years or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program. Rents for the lower income density bonus units shall be set at an affordable rent as defined in Section 50053 of the Health and Safety Code.

(2) An applicant shall agree to, and the city, county, or city and county shall ensure that, the initial occupant of all for-sale units that qualified the applicant for the award of the density bonus are persons and families of very low, low, or moderate income, as required, and that the units are offered at an affordable housing cost, as that cost is defined in Section 50052.5 of the Health and Safety Code. The local government shall enforce an equity sharing agreement, unless it is in conflict with the requirements of another public funding source or law. The following apply to the equity sharing agreement:

(A) Upon resale, the seller of the unit shall retain the value of any improvements, the downpayment, and the seller's proportionate share of appreciation. The local government shall recapture any initial subsidy, as defined in subparagraph (B), and its proportionate share of appreciation, as defined in subparagraph (C), which amount shall

be used within five years for any of the purposes described in subdivision (e) of Section 33334.2 of the Health and Safety Code that promote home ownership.

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

(C) For purposes of this subdivision, the local government's proportionate share of appreciation shall be equal to the ratio of the local government's initial subsidy to the fair market value of the home at the time of initial sale.

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

(i) The proposed housing development, inclusive of the units replaced pursuant to this paragraph, contains affordable units at the percentages set forth in subdivision (b).

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

(B) For the purposes of this paragraph, "replace" shall mean either of the following:

(i) If any dwelling units described in subparagraph (A) are occupied on the date of application, the proposed housing development shall provide at least the same number of units of equivalent size or type, or both, to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those households in occupancy. For unoccupied dwelling units described in subparagraph (A) in a development with occupied units, the proposed housing development shall provide units of equivalent size or type, or both, to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category in the same proportion of affordability as the occupied units. All replacement calculations resulting in fractional units shall be rounded up to the next whole number. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years. If the proposed development is for-sale units, the units replaced shall be subject to paragraph (2).

(ii) If all dwelling units described in subparagraph (A) have been vacated or demolished within the five-year period preceding the application, the proposed housing development shall provide at least the same number of units of equivalent size or type, or both, as existed at the highpoint of those units in the five-year period preceding the application to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those persons and families in occupancy at that time, if known. If the incomes of the persons and families in occupancy at the highpoint is not known, then one-half of the required units shall be made available at affordable rent or affordable housing cost to, and occupied by, very low income persons and families and one-half of the required units shall be made available for rent at affordable housing costs to, and occupied by, low-income persons and families. All replacement calculations resulting in fractional units shall be rounded up to the next whole number. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years. If the proposed development is for-sale units, the units replaced shall be subject to paragraph (2).

(C) Paragraph (3) of subdivision (c) does not apply to an applicant seeking a density bonus for a proposed housing development if his or her application was submitted to, or processed by, a city, county, or city and county before January 1, 2015.

(d) (1) An applicant for a density bonus pursuant to subdivision (b) may submit to a city, county, or city and county a proposal for the specific incentives or concessions that the applicant requests pursuant to this section, and may request a meeting with the city, county, or city and county. The city, county, or city and county shall grant the concession or incentive requested by the applicant unless the city, county, or city and county makes a written finding, based upon substantial evidence, of any of the following:

(A) The concession or incentive is not required in order to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).

(B) The concession or incentive would have a specific adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households.

(C) The concession or incentive would be contrary to state or federal law.

(2) The applicant shall receive the following number of incentives or concessions:

(A) One incentive or concession for projects that include at least 10 percent of the total units for lower income households, at least 5 percent for very low income households, or at least 10 percent for persons and families of moderate income in a common interest development.

(B) Two incentives or concessions for projects that include at least 20 percent of the total units for lower income households, at least 10 percent for very low income households, or at least 20 percent for persons and families of moderate income in a common interest development.

(C) Three incentives or concessions for projects that include at least 30 percent of the total units for lower income households, at least 15 percent for very low income households, or at least 30 percent for persons and families of moderate income in a common interest development.

(3) The applicant may initiate judicial proceedings if the city, county, or city and county refuses to grant a requested density bonus, incentive, or concession. If a court finds that the refusal to grant a requested density bonus, incentive, or concession is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit. Nothing in this subdivision shall be interpreted to require a local government to grant an incentive or concession that has a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Nothing in this subdivision shall be interpreted to require a local government to grant an incentive or concession that would have an adverse impact on any real property that is listed in the California Register of Historical Resources. The city, county, or city and county shall establish procedures for carrying out this section, that shall include legislative body approval of the means of compliance with this section.

(e) (1) In no case may a city, county, or city and county apply any development standard that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted by this section. An applicant may submit to a city, county, or city and county a proposal for the waiver or reduction of development standards that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted under this section, and may request a meeting with the city, county, or city and county. If a court finds that the refusal to grant a waiver or reduction of development standards is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit. Nothing in this subdivision shall be interpreted to require a local government to waive or reduce development standards if the waiver or reduction would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Nothing in this subdivision shall be interpreted to require a local government to waive or reduce development standards that would have an adverse impact on any real property that is listed in the California Register of Historical Resources, or to grant any waiver or reduction that would be contrary to state or federal law.

(2) A proposal for the waiver or reduction of development standards pursuant to this subdivision shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to subdivision (d).

(f) For the purposes of this chapter, "density bonus" means a density increase over the otherwise maximum allowable residential density as of the date of application by the applicant to the city, county, or city and county. The applicant may elect to accept a lesser percentage of density bonus. The amount of density bonus to which the applicant is entitled shall vary according to the amount by which the percentage of affordable housing units exceeds the percentage established in subdivision (b).

(1) For housing developments meeting the criteria of subparagraph (A) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Low-Income Units	Percentage Density Bonus
10	20

11	21.5
12	23
13	24.5
14	26
15	27.5
17	30.5
18	32
19	33.5
20	35

(2) For housing developments meeting the criteria of subparagraph (B) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

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

(3) For housing developments meeting the criteria of subparagraph (C) of paragraph (1) of subdivision (b), the density bonus shall be 20 percent of the number of senior housing units.

(4) For housing developments meeting the criteria of subparagraph (D) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Moderate-Income Units	Percentage Density Bonus
10	5
11	6
12	7
13	8
14	9
15	10
16	11
17	12
18	13
19	14
20	15
21	16
22	17
23	18
24	19
25	20
26	21
27	22

28	23
29	24
30	25
31	26
32	27
33	28
34	29
35	30
36	31
37	32
38	33
39	34
40	35

(5) All density calculations resulting in fractional units shall be rounded up to the next whole number. The granting of a density bonus shall not be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary approval.

(g) (1) When an applicant for a tentative subdivision map, parcel map, or other residential development approval donates land to a city, county, or city and county in accordance with this subdivision, the applicant shall be entitled to a 15-percent increase above the otherwise maximum allowable residential density for the entire development, as follows:

Percentage Very Low Income	Percentage Density Bonus
10	15
11	16
12	17
13	18
14	19
15	20
16	21
17	22
18	23
19	24
20	25
21	26
22	27
23	28
24	29
25	30
26	31
27	32
28	33
29	34
30	35

(2) This increase shall be in addition to any increase in density mandated by subdivision (b), up to a maximum

combined mandated density increase of 35 percent if an applicant seeks an increase pursuant to both this subdivision and subdivision (b). All density calculations resulting in fractional units shall be rounded up to the next whole number. Nothing in this subdivision shall be construed to enlarge or diminish the authority of a city, county, or city and county to require a developer to donate land as a condition of development. An applicant shall be eligible for the increased density bonus described in this subdivision if all of the following conditions are met:

(A) The applicant donates and transfers the land no later than the date of approval of the final subdivision map, parcel map, or residential development application.

(B) The developable acreage and zoning classification of the land being transferred are sufficient to permit construction of units affordable to very low income households in an amount not less than 10 percent of the number of residential units of the proposed development.

(C) The transferred land is at least one acre in size or of sufficient size to permit development of at least 40 units, has the appropriate general plan designation, is appropriately zoned with appropriate development standards for development at the density described in paragraph (3) of subdivision (c) of Section 65583.2, and is or will be served by adequate public facilities and infrastructure.

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

(E) The transferred land and the affordable units shall be subject to a deed restriction ensuring continued affordability of the units consistent with paragraphs (1) and (2) of subdivision (c), which shall be recorded on the property at the time of the transfer.

(F) The land is transferred to the local agency or to a housing developer approved by the local agency. The local agency may require the applicant to identify and transfer the land to the developer.

(G) The transferred land shall be within the boundary of the proposed development or, if the local agency agrees, within one-quarter mile of the boundary of the proposed development.

(H) A proposed source of funding for the very low income units shall be identified not later than the date of approval of the final subdivision map, parcel map, or residential development application.

(h) (1) When an applicant proposes to construct a housing development that conforms to the requirements of subdivision (b) and includes a child care facility that will be located on the premises of, as part of, or adjacent to, the project, the city, county, or city and county shall grant either of the following:

(A) An additional density bonus that is an amount of square feet of residential space that is equal to or greater than the amount of square feet in the child care facility.

(B) An additional concession or incentive that contributes significantly to the economic feasibility of the construction of the child care facility.

(2) The city, county, or city and county shall require, as a condition of approving the housing development, that the following occur:

(A) The child care 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 pursuant to subdivision (c).

(B) Of the children who attend the child care facility, the children of very low income households, lower income households, or families of moderate income shall equal a percentage that is equal to or greater than the percentage of dwelling units that are required for very low income households, lower income households, or families of moderate income pursuant to subdivision (b).

(3) Notwithstanding any requirement of this subdivision, a city, county, or city and county shall not be required to provide a density bonus or concession for a child care facility if it finds, based upon substantial evidence, that the community has adequate child care facilities.

(4) "Child care facility," as used in this section, 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 schoolage child care centers.

(i) "Housing development," as used in this section, means a development project for five or more residential units. For the purposes of this section, "housing development" also includes a subdivision or common interest development, as defined in Section 4100 of the Civil Code, approved by a city, county, or city and county and consists of residential units or unimproved residential lots and either a project to substantially rehabilitate and

convert an existing commercial building to residential use or the substantial rehabilitation of an existing multifamily dwelling, as defined in subdivision (d) of Section 65863.4, where the result of the rehabilitation would be a net increase in available residential units. For the purpose of calculating a density bonus, the residential units shall be on contiguous sites that are the subject of one development application, but do not have to be based upon individual subdivision maps or parcels. The density bonus shall be permitted in geographic areas of the housing development other than the areas where the units for the lower income households are located.

(j) (1) The granting of a concession or incentive shall not be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary approval. This provision is declaratory of existing law.

(2) Except as provided in subdivisions (d) and (e), the granting of a density bonus shall not be interpreted to require the waiver of a local ordinance or provisions of a local ordinance unrelated to development standards.

(k) For the purposes of this chapter, concession or incentive means any of the following:

(1) A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, including, but not limited to, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required that results in identifiable, financially sufficient, and actual cost reductions.

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

(3) Other regulatory incentives or concessions proposed by the developer or the city, county, or city and county that result in identifiable, financially sufficient, and actual cost reductions.

(l) Subdivision (k) does not limit or require the provision of direct financial incentives for the housing development, including the provision of publicly owned land, by the city, county, or city and county, or the waiver of fees or dedication requirements.

(m) This section does not supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code).

(n) If permitted by local ordinance, nothing in this section shall be construed to prohibit a city, county, or city and county from granting a density bonus greater than what is described in this section for a development that meets the requirements of this section or from granting a proportionately lower density bonus than what is required by this section for developments that do not meet the requirements of this section.

(o) For purposes of this section, the following definitions shall apply:

(1) "Development standard" includes a site or construction condition, including, but not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open-space requirement, or a parking ratio that applies to a residential development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation.

(2) "Maximum allowable residential density" means the density allowed under the zoning ordinance and land use element of the general plan, or if a range of density is permitted, means the maximum allowable density for the specific zoning range and land use element of the general plan applicable to the project. Where the density allowed under the zoning ordinance is inconsistent with the density allowed under the land use element of the general plan, the general plan density shall prevail.

(p) (1) Except as provided in paragraphs (2) and (3), upon the request of the developer, a city, county, or city and county shall not require a vehicular parking ratio, inclusive of handicapped and guest parking, of a development meeting the criteria of subdivisions (b) and (c), that exceeds the following ratios:

(A) Zero to one bedroom: one onsite parking space.

(B) Two to three bedrooms: two onsite parking spaces.

(C) Four and more bedrooms: two and one-half parking spaces.

(2) Notwithstanding paragraph (1), if a development includes the maximum percentage of low- or very low income units provided for in paragraphs (1) and (2) of subdivision (f) and is located within one-half mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code, and there is unobstructed access to the major transit stop from the development, then, upon the request of the developer, a

city, county, or city and county shall not impose a vehicular parking ratio, inclusive of handicapped and guest parking, that exceeds 0.5 spaces per bedroom. For purposes of this subdivision, a development shall have unobstructed access to a major transit stop if a resident is able to access the major transit stop without encountering natural or constructed impediments.

(3) Notwithstanding paragraph (1), if a development consists solely of rental units, exclusive of a manager's unit or units, with an affordable housing cost to lower income families, as provided in Section 50052.5 of the Health and Safety Code, then, upon the request of the developer, a city, county, or city and county shall not impose a vehicular parking ratio, inclusive of handicapped and guest parking, that exceeds the following ratios:

(A) If the development is located within one-half mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code, and there is unobstructed access to the major transit stop from the development, the ratio shall not exceed 0.5 spaces per unit.

(B) If the development is a for-rent housing development for individuals who are 62 years of age or older that complies with Sections 51.2 and 51.3 of the Civil Code, the ratio shall not exceed 0.5 spaces per unit. The development shall have either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.

(C) If the development is a special needs housing development, as defined in Section 51312 of the Health and Safety Code, the ratio shall not exceed 0.3 spaces per unit. The development shall have either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.

(4) If the total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number. For purposes of this subdivision, a development may provide on-site parking through tandem parking or uncovered parking, but not through on-street parking.

(5) This subdivision shall apply to a development that meets the requirements of subdivisions (b) and (c), but only at the request of the applicant. An applicant may request parking incentives or concessions beyond those provided in this subdivision pursuant to subdivision (d).

(6) This subdivision does not preclude a city, county, or city and county from reducing or eliminating a parking requirement for development projects of any type in any location.

(7) Notwithstanding paragraphs (2) and (3), if a city, county, city and county, or an independent consultant has conducted an areawide or jurisdictionwide parking study in the last seven years, then the city, county, or city and county may impose a higher vehicular parking ratio not to exceed the ratio described in paragraph (1), based upon substantial evidence found in the parking study, that includes, but is not limited to, 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- and very low income individuals, including seniors and special needs individuals. The city, county, or city and county shall pay the costs of any new study. The city, county, or city and county shall make findings, based on a parking study completed in conformity with this paragraph, supporting the need for the higher parking ratio.

(Amended by Stats. 2015, Ch. 699, Sec. 2. Effective January 1, 2016.)

65915.5. (a) When an applicant for approval to convert apartments to a condominium project agrees to provide at least 33 percent of the total units of the proposed condominium project to persons and families of low or moderate income as defined in Section 50093 of the Health and Safety Code, or 15 percent of the total units of the proposed condominium project to lower income households as defined in Section 50079.5 of the Health and Safety Code, and agrees to pay for the reasonably necessary administrative costs incurred by a city, county, or city and county pursuant to this section, the city, county, or city and county shall either (1) grant a density bonus or (2) provide other incentives of equivalent financial value. A city, county, or city and county may place 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 purchasers who are persons and families of low and moderate income or lower income households.

(b) For purposes of this section, "density bonus" means an increase in units of 25 percent over the number of apartments, to be provided within the existing structure or structures proposed for conversion.

(c) For purposes of this section, "other incentives of equivalent financial value" shall not be construed to require a city, county, or city and county to provide cash transfer payments or other monetary compensation but may include the reduction or waiver of requirements which the city, county, or city and county might otherwise apply as conditions of conversion approval.

(d) An applicant for approval to convert apartments to a condominium project may submit to a city, county, or city and county a preliminary proposal pursuant to this section prior to the submittal of any formal requests for subdivision map approvals. The city, county, or city and county shall, within 90 days of receipt of a written proposal, notify the applicant in writing of the manner in which it will comply with this section. The city, county, or city and county shall establish procedures for carrying out this section, which shall include legislative body approval of the means of compliance with this section.

(e) Nothing in this section shall be construed to require a city, county, or city and county to approve a proposal to convert apartments to condominiums.

(f) An applicant shall be ineligible for a density bonus or other incentives under this section if the apartments proposed for conversion constitute a housing development for which a density bonus or other incentives were provided under Section 65915.

(g) An applicant shall be ineligible for a density bonus or any other incentives or concessions under this section if the condominium project is proposed on any property that includes a parcel or parcels on which rental dwelling units are or, if the dwelling units have been vacated or demolished in the five-year period preceding the application, have been subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of lower or very low income; subject to any other form of rent or price control through a public entity's valid exercise of its police power; or occupied by lower or very low income households, unless the proposed condominium project replaces those units, as defined in subparagraph (B) of paragraph (3) of subdivision (c) of Section 65915, and either of the following applies:

(1) The proposed condominium project, inclusive of the units replaced pursuant to subparagraph (B) of paragraph (3) of subdivision (c) of Section 65915, contains affordable units at the percentages set forth in subdivision (a).

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

(h) Subdivision (g) does not apply to an applicant seeking a density bonus for a proposed housing development if their application was submitted to, or processed by, a city, county, or city and county before January 1, 2015.

(Amended by Stats. 2014, Ch. 682, Sec. 2. Effective January 1, 2015.)

65916. Where there is a direct financial contribution to a housing development pursuant to Section 65915 through participation in cost of infrastructure, write-down of land costs, or subsidizing the cost of construction, the city, county, or city and county shall assure continued availability for low- and moderate-income units for 30 years. When appropriate, the agreement provided for in Section 65915 shall specify the mechanisms and procedures necessary to carry out this section.

(Added by Stats. 1979, Ch. 1207.)

65917. In enacting this chapter it is the intent of the Legislature that the density bonus or other incentives offered by the city, county, or city and county pursuant to this chapter shall contribute significantly to the economic feasibility of lower income housing in proposed housing developments. In the absence of an agreement by a developer in accordance with Section 65915, a locality shall not offer a density bonus or any other incentive that would undermine the intent of this chapter.

(Amended by Stats. 2001, Ch. 115, Sec. 14. Effective January 1, 2002.)

65917.5. (a) As used in this section, the following terms shall have the following meanings:

(1) "Child care facility" means a facility installed, operated, and maintained under this section for the nonresidential care of children as defined under applicable state licensing requirements for the facility.

(2) "Density bonus" means a floor area ratio bonus over the otherwise maximum allowable density permitted under the applicable zoning ordinance and land use elements of the general plan of a city, including a charter city, city and county, or county of:

(A) A maximum of five square feet of floor area for each one square foot of floor area contained in the child care facility for existing structures.

(B) A maximum of 10 square feet of floor area for each one square foot of floor area contained in the child care facility for new structures.

For purposes of calculating the density bonus under this section, both indoor and outdoor square footage requirements for the child care facility as set forth in applicable state child care licensing requirements shall be included in the floor area of the child care facility.

(3) "Developer" means the owner or other person, including a lessee, having the right under the applicable zoning ordinance of a city council, including a charter city council, city and county board of supervisors, or county board of supervisors to make an application for development approvals for the development or redevelopment of a commercial or industrial project.

(4) "Floor area" means as to a commercial or industrial project, the floor area as calculated under the applicable zoning ordinance of a city council, including a charter city council, city and county board of supervisors, or county board of supervisors and as to a child care facility, the total area contained within the exterior walls of the facility and all outdoor areas devoted to the use of the facility in accordance with applicable state child care licensing requirements.

(b) A city council, including a charter city council, city and county board of supervisors, or county board of supervisors may establish a procedure by ordinance to grant a developer of a commercial or industrial project, containing at least 50,000 square feet of floor area, a density bonus when that developer has set aside at least 2,000 square feet of floor area and 3,000 outdoor square feet to be used for a child care facility. The granting of a bonus shall not preclude a city council, including a charter city council, city and county board of supervisors, or county board of supervisors from imposing necessary conditions on the project or on the additional square footage. Projects constructed under this section shall conform to height, setback, lot coverage, architectural review, site plan review, fees, charges, and other health, safety, and zoning requirements generally applicable to construction in the zone in which the property is located. A consortium with more than one developer may be permitted to achieve the threshold amount for the available density bonus with each developer's density bonus equal to the percentage participation of the developer. This facility may be located on the project site or may be located offsite as agreed upon by the developer and local agency. If the child care facility is not located on the site of the project, the local agency shall determine whether the location of the child care facility is appropriate and whether it conforms with the intent of this section. The child care facility shall be of a size to comply with all state licensing requirements in order to accommodate at least 40 children.

(c) The developer may operate the child care facility itself or may contract with a licensed child care provider to operate the facility. In all cases, the developer shall show ongoing coordination with a local child care resource and referral network or local governmental child care coordinator in order to qualify for the density bonus.

(d) If the developer uses space allocated for child care facility purposes, in accordance with subdivision (b), for purposes other than for a child care facility, an assessment based on the square footage of the project may be levied and collected by the city council, including a charter city council, city and county board of supervisors, or county board of supervisors. The assessment shall be consistent with the market value of the space. If the developer fails to have the space allocated for the child care facility within three years, from the date upon which the first temporary certificate of occupancy is granted, an assessment based on the square footage of the project may be levied and collected by the city council, including a charter city council, city and county board of supervisors, or county board of supervisors in accordance with procedures to be developed by the legislative body of the city council, including a charter city council, city and county board of supervisors, or county board of supervisors. The assessment shall be consistent with the market value of the space. A penalty levied against a consortium of developers shall be charged to each developer in an amount equal to the developer's percentage square feet participation. Funds collected pursuant to this subdivision shall be deposited by the city council, including a charter city council, city and county board of supervisors, or county board of supervisors into a special account to be used for child care services or child care facilities.

(e) Once the child care facility has been established, prior to the closure, change in use, or reduction in the physical size of, the facility, the city, city council, including a charter city council, city and county board of supervisors, or county board of supervisors shall be required to make a finding that the need for child care is no longer present, or is not present to the same degree as it was at the time the facility was established.

(f) The requirements of Chapter 5 (commencing with Section 66000) and of the amendments made to Sections 53077, 54997, and 54998 by Chapter 1002 of the Statutes of 1987 shall not apply to actions taken in accordance with this section.

(g) This section shall not apply to a voter-approved ordinance adopted by referendum or initiative.

(Amended by Stats. 2008, Ch. 179, Sec. 112. Effective January 1, 2009.)

65918. The provisions of this chapter shall apply to charter cities.

(Added by Stats. 1979, Ch. 1207.)



GOVERNMENT CODE - GOV

TITLE 7. PLANNING AND LAND USE [65000 - 66499.58] *(Heading of Title 7 amended by Stats. 1974, Ch. 1536.)*

DIVISION 1. PLANNING AND ZONING [65000 - 66103] *(Heading of Division 1 added by Stats. 1974, Ch. 1536.)*

CHAPTER 4. Zoning Regulations [65800 - 65912] *(Chapter 4 repealed and added by Stats. 1965, Ch. 1880.)*

ARTICLE 2. Adoption of Regulations [65850 - 65863.13] *(Article 2 added by Stats. 1965, Ch. 1880.)*

65852.3. (a) A city, including a charter city, county, or city and county, shall allow the installation of manufactured homes certified under the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Secs. 5401 et seq.) on a foundation system, pursuant to Section 18551 of the Health and Safety Code, on lots zoned for conventional single-family residential dwellings. Except with respect to architectural requirements, a city, including a charter city, county, or city and county, shall only subject the manufactured home and the lot on which it is placed to the same development standards to which a conventional single-family residential dwelling on the same lot would be subject, including, but not limited to, building setback standards, side and rear yard requirements, standards for enclosures, access, and vehicle parking, aesthetic requirements, and minimum square footage requirements. Any architectural requirements imposed on the manufactured home structure itself, exclusive of any requirement for any and all additional enclosures, shall be limited to its roof overhang, roofing material, and siding material. These architectural requirements may be imposed on manufactured homes even if similar requirements are not imposed on conventional single-family residential dwellings. However, any architectural requirements for roofing and siding material shall not exceed those which would be required of conventional single-family dwellings constructed on the same lot. At the discretion of the local legislative body, the city or county may preclude installation of a manufactured home in zones specified in this section if more than 10 years have elapsed between the date of manufacture of the manufactured home and the date of the application for the issuance of a permit to install the manufactured home in the affected zone. In no case may a city, including a charter city, county, or city and county, apply any development standards that will have the effect of precluding manufactured homes from being installed as permanent residences.

(b) At the discretion of the local legislative body, any place, building, structure, or other object having a special character or special historical interest or value, and which is regulated by a legislative body pursuant to Section 37361, may be exempted from this section, provided the place, building, structure, or other object is listed on the National Register of Historic Places.

(Amended by Stats. 1994, Ch. 896, Sec. 3. Effective January 1, 1995.)