

## Density Bonus and Housing Permits Frequently Asked Questions

CHAPTER 22.52 PART 17 & CHAPTER 22.56 PART 18

### **Q: What is a Housing Permit? Are there different types?**

**A:** The Housing Permit (Part 18 of 22.56) was established to implement the County's density bonus provisions in (Part 17 of 22.52) of the Los Angeles County Code. The density bonus provisions, in part, implement Section 65915 of the California Government Code. There are three types of housing permits:

1) *Administrative Housing Permit:* Requires a staff-level review. Applies to the granting of any of the following: density bonuses for qualified projects of five dwelling units or more with affordable housing, senior citizen housing, land donations and/or childcare facilities; parking reductions; on-menu affordable housing incentives; density bonuses and affordable housing incentives for projects of four dwelling units or less that participate in the CDC Infill Sites Program.

2) *Administrative Housing Permit, Off-Menu:* Same as Administrative Housing Permit, with the exception of on-menu incentives. Requires a staff-level review, with the determination subject to appeal by any interested person to the RPC or to be called up for review by the RPC, but through a limited procedure, with the decision of the RPC being final.

3) *Discretionary Housing Permit:* Requires a discretionary review and a public hearing before the RPC, with the determination subject to appeal by any interested person to the Board of Supervisors. Applies to the granting of requests for any of the following: waivers or modifications to development standards; the senior citizen housing option; affordable housing option.

### **Q: How does an applicant qualify for a density bonus? [22.52.1830]**

**A:** An applicant is eligible for a density bonus if the project is five dwelling units or more, and includes a specified percentage of affordable housing, market-rate senior citizen housing, or land donations for affordable housing. An applicant with a project of four units or less is eligible for a density bonus if the project is sponsored by the CDC Infill Sites Program.

### **Q: What is the difference between an "incentive," "parking reduction" and a "waiver or modification to a development standard"?**

**A:** While there is overlap between incentives, parking reductions (specified in Section 22.52.1850), and waivers or modifications to development standards, they are different provisions, and can be used in conjunction with one another:

1) *Parking reduction:* The parking rates specified in Section 22.52.1850 apply to all units within qualified projects, except for cases in which the parking provisions in Title 22 are more generous. If an additional parking reduction is needed, it can be requested as an on or off-menu incentive, or as a waiver or modification to a development standard.

2) *Incentives:* As described in Section 22.52.1840, incentives only apply to qualified projects that include affordable housing set-asides. A qualified project is eligible for one to three incentives. Incentives are granted on a sliding scale. If the qualified project includes a childcare facility, it is entitled to an additional incentive. On and off-menu incentives are granted through a staff-level review, although they are subject to different procedures.

3) *Waivers or modifications to development standards:* As described in Section 22.52.1860, these apply to all qualified projects, and can be requested on an as-needed basis for all qualified projects. Waivers or modifications to development standards are granted through a discretionary review.

### **Q: How does the menu of incentives work? What is the procedure for granting off-menu incentives? [22.52.1840]**

**A:** The menu of incentives is a recommended list of incentives; however, the applicant can request an incentive off-menu, as well. In either the case of a request for an on-menu or off-menu incentive, the staff must determine that the incentive contributes to the long-term affordability of the housing set-asides, and that the incentive would not have an adverse impact upon public health, safety, physical environment, or real property listed in the California Register of Historical Resources.

**Q: Can the County prohibit what types of incentives or waiver or modification to development standards an applicant can request?**

**A:** No. All requests for incentives or waivers or modification to development standards must be considered, and can only be denied based on limited criteria. The state density bonus law is clear that a local government will face considerable penalties if it refuses to grant qualifying incentives or waivers or modifications of development standards.

**Q: Can incentives be used to trump prohibited uses or building types?**

**A:** No. The Housing Permit cannot trump underlying prohibited uses and building types. For example, a residential project in an R-1 zone can qualify for a density bonus, but single-family provisions in R-1 still apply. In another example, a Housing Permit cannot be used to build residential uses in an industrial zone. In the case of uses subject to permit, the applicant still needs to obtain the necessary entitlements for that project. In another example, a conditional use permit for a residential use in a commercial zone is still required.

**Q: What are the appropriate bases by which the County could deny requests for incentives? [22.56.2730]**

**A:** Requests for incentives can be denied for two reasons: 1) the incentive does not contribute to the long-term affordability of the housing set-asides; 2) the incentive would have an adverse impact upon public health, safety, physical environment, or real property listed on the California Register of Historical Resources.

**Q: Do senior citizen housing developments have to be affordable in order to qualify for the senior citizen development density bonus provisions?**

**A:** No. "Senior citizen housing development," which is defined in Section 51.3 of the CA Civil Code as a housing development that consists of age-restricted units—which means that the development could be market-rate—is entitled to a capped 20% density bonus. Senior citizen

housing developments must consist entirely of age-restricted for senior citizens. If the senior citizen housing development contains affordable units, the project is entitled to the same density bonuses and incentives as non aged-restricted projects with affordable housing set-asides.

**Q: What if the project is eligible for density bonuses for senior citizen housing and affordable housing?**

**A:** Where a qualified project is eligible for both, the provisions for affordable housing shall apply.

**Q: What is the senior citizen housing option? [22.52.1870]**

**A:** The senior citizen housing option allows qualified projects that provide a minimum 50% senior citizen housing set-aside, up to a 50% density bonus through a discretionary housing permit. The set-asides provided through the senior citizen housing option must adhere to the provisions set forth in Section 51.3 of the CA Civil Code (ie., the senior citizen housing development shall be at least 35 units) and state and federal fair housing laws (ie., the senior citizen housing development provided as the set-aside for the overall development shall consist entirely of age-restricted units).

**Q: What is the affordable housing option? [22.52.1880]**

**A:** The affordable housing option allows for qualified projects that include an affordable housing set-aside to request a greater density bonus, or incentives that do not contribute to maintaining the affordability of the housing set-aside units, as well as the transfer of density bonuses and incentives, through a discretionary housing permit. The affordable housing option was created to consider qualified projects that may not meet such qualifications, but may provide desirable design features or amenities or be justified for social or other economic reasons, as well as to provide more options for qualified projects that may not have an incentive available to request a higher density bonus.

**Q: How do density bonuses and incentives work in conjunction with Community Standards Districts (CSDs)?**

**A:** The density bonus provisions in Title 22 apply to all areas that allow residential uses, including areas covered by CSDs. Where a qualified project falls within an area covered by a CSD, the density bonuses, parking reductions, incentives and waivers or modifications to development standards provided through a Housing Permit shall be calculated and applied to the underlying standards and requirements specified in the CSD.

**Q: Can there be instances in which more than 35% density bonus can be granted (or in the case of senior citizen housing developments, more than 20%)? Can Housing Permit density bonuses be cumulative?**

**A:** Yes; however, Housing Permit density bonuses are not cumulative. For example, if a project consists of qualifying housing set-asides for more than one level of affordability i.e., very-low income and lower income, the applicant must choose the level of affordability from which the density bonus and incentives are calculated. The following are circumstances in which Housing Permit density bonuses can be larger than 35% (or 20% in the case of senior citizen housing developments):

- A qualified project includes a child care facility and the applicant requests an additional density bonus.
- A qualified project includes an on-menu request for a 50% density bonus.
- A qualified project includes an off-menu request for a larger density bonus.
- An applicant opts for up to a 50% density bonus through the senior citizen housing option (Discretionary Housing Permit).
- An applicant opts for a larger density bonus through the affordable housing option (Discretionary Housing Permit).

**Q: What if the applicant qualifies for density bonuses and incentives that can be granted through an Administrative Housing Permit, but also needs to apply for other discretionary entitlements? [22.56.2700]**

**A:** The Regional Planning Commission can consider Administrative Housing Permits concurrently with other discretionary entitlements, as described in 22.56.2700, but must adhere to the requirements for the administrative procedures and cannot exercise discretion over the granting of the density bonus, and related incentives, etc.

**Q: What is the procedure for processing a request for a fee waiver as an off-menu incentive? [22.52.1840.C]**

**A:** The applicant can ask for a fee waiver not specified on the menu of incentives, but must first go through the Board of Supervisors to have the item agendaized and the fee waiver publicly approved before the fee waiver can be granted as an incentive.

**Q: How are density bonuses and incentives granted? [22.52.1830 Tables A and B]**

**A:** Density bonuses and incentives shall be granted, as described in the tables below:

<b>Set-Aside</b>	<b>Density Bonus</b>	<b>Incentives</b>
<b>Very Low 50% AMI</b>	<b>(+2.5%)</b>	<b>1-3</b>
5% (min.)	20%	1
6%	22.5%	1
7%	25%	1
8%	27.5%	1
9%	30%	1
11%	35%	2
12%	35%	2
13%	35%	2
14%	35%	2
15%	35%	3
16%	35%	3
17%	35%	3
18%	35%	3
19%	35%	3
20%	35%	3
...	35%	3

<b>Set-Aside</b>	<b>Density Bonus</b>	<b>Incentives</b>
<b>Lower 80% AMI</b>	<b>(+1.5%)</b>	<b>1-3</b>
10% (min.)	20%	1
11%	21.5%	1
12%	23%	1
13%	24.5%	1
14%	26%	1
15%	27.5%	1
16%	29%	1
17%	30.5%	1
18%	32%	1
19%	33.5%	1
20%	35%	2
21%	35%	2
22%	35%	2
23%	35%	2
24%	35%	2
25%	35%	2
26%	35%	2
27%	35%	2
28%	35%	2
29%	35%	2
30%	35%	3
...	35%	3

<b>Set-Aside</b>	<b>Density Bonus</b>	<b>Incentives</b>
<b>Moderate 120% AMI</b>	<b>(+1%)</b>	<b>1-3</b>
10% (min.)	5%	1
11%	6%	1
12%	7%	1
13%	8%	1
14%	9%	1
15%	10%	1
16%	11%	1
17%	12%	1
18%	13%	1
19%	14%	1
20%	15%	2
21%	16%	2
22%	17%	2
23%	18%	2
24%	19%	2
25%	20%	2
26%	21%	2
27%	22%	2
28%	23%	2
29%	24%	2
30%	25%	3
31%	26%	3
32%	27%	3
33%	28%	3
34%	29%	3
35%	30%	3
36%	31%	3
37%	32%	3
38%	33%	3
39%	34%	3
40%	35%	3
...	335%	3

<b>Land Donation</b>	<b>Density Bonus</b>
<b>Very Low 50% AMI</b>	<b>(+1%)</b>
10%(min.)	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%
...	35%

\*Land donation density bonuses can be combined with density bonuses for affordable housing set-asides, up to a maximum combined total of 35%.