Chapter 11.30 Density Bonus Incentive Program

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11.30.010 Purpose

A. To implement state legislation (Government Code Section 65915 et seq.) intending that density bonuses and other incentives contribute significantly to the economic feasibility of housing that is affordable to the types of household and qualifying residents identified in Section 11.30.040 (Qualifying Projects). If any provision of this chapter conflicts with state law, the latter shall control. Applicable statutes shall be consulted for amendments prior to applying the provisions in this chapter. The County reserves the right to review applications for a density bonus in accordance with state density bonus law.

B. To provide both owner-occupied and rental housing units that are affordable to all households, particularly to those of very low-, low-, moderate-income families, and senior citizens in a manner that will protect the health, safety, and general welfare of the residents of Yuba County.

11.30.020 Applicability

The density bonuses and incentives contained in this chapter shall apply to housing developments eligible for a density bonus under state density bonus law. This chapter shall be applicable to all zoning districts that permit residential uses. When an applicant seeks a density bonus for a housing development or for the donation of land for housing within the County that meets the requirements set out in California Government Code Section 65915, the actions and procedures set out in this chapter shall apply. The density bonus provisions of California Government Code Sections 65915 et seq., as may be amended from time to time, are incorporated by reference into this chapter.

11.30.030 General Provisions

A. The granting of a density bonus shall not require a General Plan amendment, Zoning Map amendment, Zoning Code amendment, or other discretionary approval. If approval of the base units in the project (without the bonus units) requires discretionary review that shall be conducted without considering the bonus units.

B. Application fees shall be collected in accordance with Section 11.57.040. If an application for a density bonus requires an unusual amount or specialized type of study or evaluation by County staff, consultant or legal counsel, County staff shall estimate the cost thereof and require the applicant to pay an additional fee or make one or more deposits to pay such cost before the study or evaluation is begun. On completion of the study or evaluation, and before the Board of Supervisors decides the application, County staff shall determine the actual cost of the work and the difference between the actual cost and the amount paid by the applicant and shall require the applicant to pay any deficiency or shall refund to the applicant any excess.

C. A proposal for the waiver or reduction of development standards shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to Government Code Section 65915(d).

D. The developer may locate the density bonus units in areas on the project site other than where the units for the lower-income households are located in the housing project.

E. The development shall conform to all lot area, yard, building height and set back, sign, wall and fence, landscaping and sidewalk, and parking standards contained in the underlying zone, except as listed in Section 11.30.110(A).

F. The development shall be connected to and served by a publicly owned and operated sanitary sewer system, piped community water system and storm water drainage facilities.

G. The County shall, within 90 days of receipt of a written proposal, notify the housing developer of the County's preliminary response and schedule a meeting with the applicant to discuss the proposal and the County's preliminary response (Government Code Section 65915.5(d)).

H. Decisions are final unless an appeal is filed pursuant to the procedures of Section 11.53.150, Appeals and Calls for Review.

11.30.040 Qualifying Projects

A. Density bonuses are available to affordable housing developers for developments with five or more dwelling units in accordance with this chapter for the following:

1. Housing developments that include a minimum affordable housing component (Section 11.30.050 and Section 11.30.140(A).
2. Housing developments that include a minimum affordable housing component and a childcare facility (Section 11.30.060).
3. Senior citizen housing developments (Section 11.30.070).
4. Land donations for very low-income housing (Section 11.30.080).
5. One hundred (100)-percent affordable housing development, except that up to 20 percent of the total units in the development may be for moderate-income households (Section 11.030.100).

B. For the purpose of calculating a density bonus, the residential units must 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 (Government Code Section 65915(i)).

11.30.050 Density Bonus Allowance for Housing Development with Affordable Housing Component

A. As demonstrated in Table 11.30.050-1, 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 percentages below. The applicant may also elect to accept a lesser percentage of density bonus.

B. Density bonus units authorized by this chapter shall not be included when determining the number of target units required to qualify for a density bonus.

C. All density calculations resulting in fractional units shall be rounded up to the next whole number.

D. For a housing development set to be 100-percent affordable to lower-income households, exclusive of managers' units, refer to Section 11.30.100.

Table 11.30.050-1: Density bonus allowance for housing development with affordable housing component					
Household Income Category	Minimum Percent Of Affordable Units	Minimum Density Bonus	Additional Density Bonus For Each 1% Increase In Affordable Units	Maximum Percent Of Affordable Units	Maximum Possible Density Bonus
Affordable Housing Development					
Very Low Income	5%	20%	2.5%; 3.75% for each unit greater than 12	15%	50%
Low Income	10%	20%	1.5%; 3.75% for each unit greater than 21	24%	50%
Moderate Income (Common Interest Developments)	10%	5%	1%; 3.75% for each unit greater than 41	44%	50%
100-Percent Affordable Housing Development					
Lower Income, including up to 20% moderate-income units	100%	80% density bonus if not within half-mile of a major transit stop; No maximum if within half-mile of a major transit stop			

11.30.060 Allowed Density Bonus for Housing Development with Affordable Housing Component and Childcare Facility

A. A density increase may be granted provided that all of the following criteria are met:

1. Compliance with Section 11.30.040 (Government Code Section 65915(h)(1)).
2. The housing development must include a childcare facility that will be located on the premises of, as part of, or adjacent to, the housing development (Government Code Section 65915(h)(1)).
3. Approval of the housing development must be conditioned to ensure that both of the following occur:

a. The childcare facility must remain in operation for a period of time that is as long as or longer than the period of time during which the affordable units are required to remain affordable, pursuant to Section 11.30.130.B (Government Code Section 65915(h)(2)(A)).

b. Of the children who attend the childcare facility, the children of very low-income households, low-income households, or moderate-income households must equal a percentage that is equal to or greater than the percentage of dwelling units that are required under the respective minimum affordable housing component income category for which the density bonus is sought (Government Code Section 65915(h)(2)(B)).

4. The County has not made a finding based upon substantial evidence that the community has adequate childcare facilities (Government Code Section 65915(h)(3)).

B. If the requirements of Subsection 11.30.060.A are met, then an applicant for a housing development with an affordable housing component and childcare facility is entitled to:

1. A density bonus pursuant to Section 11.30.050 (Density Bonus Allowance for Housing Development with Affordable Housing Component); and

2. 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 childcare facility (Government Code Section 65915(h)(1)(A)).

11.30.070 Allowed Density Bonus for Senior Citizen Housing Development

An applicant for a senior citizen housing development or a mobile home park that limits residency based on age requirements for housing for older persons pursuant to Civil Code Sections 798.76 or 799.5 is entitled to a density bonus of 20 percent of the number of senior citizen housing development units and up to a maximum of 50 percent (Government Code Section 65915(b)(1)(C) and (f)(3)).

11.30.080 Allowed Density Bonus for Land Donations

A. For a density bonus for a qualified land donation to be granted pursuant to Subsection 11.30.080.B, all the requirements of this section must be met.

1. The applicant must be applying for a tentative subdivision map, parcel map, or other residential development approval (Government Code Section 65915(g)(1)).

2. The application must include at least a 10-percent minimum affordable housing component for very low-income households (Government Code Section 65915(g)(1)).

3. The applicant must agree to donate and transfer qualified land, which is land that meets both the following criteria:

a. The developable acreage and zoning classification of the land being transferred must be 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 pursuant to Section 8116-2.5.1(a) (Government Code Section 65915(g)(2)(B)).

b. The transferred land must be at least 1 acre in size or of sufficient size to permit development of at least 40 units, have the appropriate General Plan land use designation, be appropriately zoned with development standards for development at the density described in Government Code Section 65583.2(c)(3), and is or will be served by adequate public facilities and infrastructure (Government Code Section 65915(g)(2)(C)).

4. The qualified land must be transferred to the County or to a housing developer approved by the County. The County may require the applicant to identify and transfer the land to an approved housing developer (Government Code Section 65915(g)(2)(F)).

5. The qualified land must have all of the permits and approvals, other than Building Permits, necessary for the development of the very low-income housing affordable units on the qualified land, not later than the date of approval of the final subdivision map, parcel map, or residential development application filed. However, the County may subject the proposed development to subsequent design review to the extent authorized by Government Code Section 65583.2(i) if the design is not reviewed by the County prior to the time of transfer (Government Code Section 65915(g)(2)(D)).

6. The qualified land must be donated and transferred no later than the date of approval of the final subdivision map, parcel map, or residential development application (Government Code Section 65915(g)(2)(A)).

7. The qualified land and the affordable units must be subject to a deed restriction ensuring continued affordability of the units consistent with Section 11.30.060 (Allowed Density Bonus for Housing Development with Affordable Housing Component and Childcare Facility) or Section 11.30.100 (Allowed Density Bonus for 100-Percent Affordable Housing Development), which must be recorded against the qualified land at the time of the transfer (Government Code Section 65915(g)(2)(E)).

8. The qualified land must be within the boundary of the proposed development or, if the County agrees, within 0.25 mile of the boundary of the proposed development (Government Code Section 65915(g)(2)(G)).

9. A proposed source of funding for the very low-income household units must be identified not later than the date of approval of the final subdivision map, parcel map, or residential development application (Government Code Section 65915(g)(2)(H)).

B. If the requirements of Subsection 11.30.080.A are satisfied, the applicant shall be entitled to at least a 15-percent increase above the otherwise maximum allowable residential density for the entire development, as follows in Table 11.30.80-1 (Government Code Section 65915(g)(1)):

TABLE 11.30.080-1 DENSITY BONUS ALLOWANCES FOR QUALIFIED LAND DONATION PROJECTS				
Household Income Category	Minimum Percent of Very Low-Income Units	Density Bonus	Additional Density Bonus for Each 1% Increase in Very Low-Income Units	Maximum Possible Density Bonus
Very Low-Income Housing	10% of entire development	15%	1%	50% (max. combined)

11.30.090 Allowed Density Bonus for Floor Area Ratio

A floor area ratio density bonus may be granted to an eligible housing development, upon request of the developer, in lieu of a density bonus awarded on the basis of dwelling units per acre.

A. In calculating the floor area ratio bonus pursuant to this section, the allowable gross residential area in square feet shall be the product of all of the following amounts:

1. The allowable residential base density in dwelling units per acre.

2. The site area in square feet, divided by 43,560.

3. 2,250.

B. The County Board of Supervisors shall not impose any parking requirement on an eligible housing development in excess of 0.1 parking spaces per unit that is affordable to persons and families with a household income equal to or less than 120 percent of the area median income and 0.5 parking spaces per unit that is offered at market rate.

C. An applicant seeking to develop an eligible residential development shall be allowed to calculate impact fees based on square feet, instead of on a per-unit basis.

D. If an eligible housing development is zoned for mixed-use purposes, any floor area ratio requirement under a zoning ordinance or land use element of the General Plan applicable to the nonresidential portion of the eligible residential development shall continue to apply, notwithstanding the award of a floor area ratio bonus in accordance with this section.

E. An applicant for a floor area ratio bonus may also submit to the County a proposal for specific incentives or concessions, pursuant to Section 11.30.130.

11.30.100 Allowed Density Bonus for 100-Percent Affordable Housing Development

A. A density bonus shall be provided to a developer who agrees to construct a housing development in which 100 percent of the total units, including total units and density bonus units, exclusive of managers' units, are for lower-income households. Up to 20 percent of the total units may be designated moderate-income households.

B. A housing development that meets these criteria shall receive the following density bonus:

1. If not within a half-mile of a major transit stop: 80 percent

2. If located within a half-mile of a major transit stop: No maximum controls on density

11.30.110 Additional Incentives or Concessions

The following additional incentives or concessions requested by an applicant shall be granted provided the developer agrees to construct affordable housing units in accordance with Section 11.30.040 unless the County makes the necessary findings contained in Government Code § 65915(d), (i).

A. **Affordable Housing Incentives.** Government Code Subsections 65915(d), (j), (k) and (l) govern the following provisions regarding affordable housing incentives.

1. Subject to Section 11.30.110.C (Criteria for Denial of Application for Incentives), all of the following applicable requirements must be satisfied to be granted an incentive(s) pursuant to Subsection 11.30.110.A.1 and Section 11.30.110.B (Number of Incentives Granted):

   a. The applicant for an incentive must also be an applicant for a density bonus and qualify for a density bonus pursuant to Section 11.30.040 (Government Code Section 65915(d)(1)).

   b. A specific written proposal for an incentive(s) must be submitted with the application for density bonus (Government Code Section 65915(b)(1) and (d)(1)).

c. If an incentive(s) pursuant to Section 11.30.110 is sought, the applicant must establish that each requested incentive would result in identifiable, financially sufficient, and actual cost reductions for the qualified housing development (Government Code Section 65915(k)(1) & (3)).

d. If an incentive(s) pursuant to Section 11.30.110 is sought, the applicant must establish that requirements of that section are met (Government Code Section 65915(k)(2)).

e. If an additional incentive for a childcare facility is sought pursuant to Subsection 11.30.060.B, the applicant must establish that requirements of that section are met (Government Code Section 65915(h)(1)(B)).

f. The granting of an incentive shall not be interpreted, in and of itself, to require a General Plan Amendment, Zoning Change, or other discretionary approval (Government Code Section 65915(j)). An incentive is applicable only to the project for which it is granted. An applicant for an incentive may request a meeting with the County and, if requested, the County will meet with the applicant to discuss the proposal (Government Code Section 65915(d)(1)).

2. For the purposes of this chapter, "incentive" means any of the following:

a. A reduction in site development standards or a modification of Development Code requirements or design guidelines 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 (Government Code Section 65915(k)(1)).

b. Approval of mixed-use zoning in conjunction with the qualified housing development if commercial, office, industrial, or other land uses will reduce the cost of the qualified housing development and if the commercial, office, industrial, or other land uses are compatible with the qualified housing development and the existing or planned development in the area where the proposed qualified housing development will be located (Government Code Section 65915(k)(2)).

c. Other regulatory incentives proposed by the affordable housing developer or the County that result in identifiable, financially sufficient, and actual cost reductions (Government Code Section 65915(k)(3)).

d. Nothing in this section limits or requires the provision of direct financial incentives by the County for the qualified housing development, including the provision of publicly owned land, or the waiver of fees or dedication requirements (Government Code Section 65915(l)).

B. **Number of Incentives Granted.** Subject to Section 11.30.110.C (Criteria for Denial of Application for Incentives), the applicant who meets the requirements of Section 11.30.040 shall receive the following number of incentives and as shown in Table 11.30.110-1.

1. One incentive for qualified housing development projects that include at least 5 percent for very low-income households, at least 10 percent of the total units for lower-income households, or at least 10 percent for persons and families of moderate-income households in a common interest development (Government Code Section 65915(d)(2)(A)).

2. Two incentives for qualified housing development projects that include at least 10 percent for very low-income households, at least 17 percent of the total units for low-income households, or at least 20 percent for persons and families of moderate-income households in a common interest development (Government Code Section 65915(d)(2)(B)).

3. Three incentives for qualified housing development projects that include at least 15 percent for very low-income households, at least 24 percent of the total units for lower-income households, or at least 30 percent for persons and families of moderate-income households in a common interest development (Government Code Section 65915(d)(2)(C)).

4. Four incentives or concessions for qualified housing development projects that include 100-percent affordable units, except that up to 20 percent of the total units in the development may be for moderate-income households. If the project is located within 0.5 mile of a major transit stop, the project is also eligible to receive a height increase of up to three additional stories, or 33 feet.

5. A qualified housing development proposal that includes a childcare facility shall be granted an additional incentive that contributes significantly to the economic feasibility of the construction of the childcare facility (Government Code Section 65915(h)(1)(B)).

<table>
<tr><th colspan="6">TABLE 11.30.110-1 INCENTIVE ALLOWANCES FOR QUALIFIED HOUSING DEVELOPMENTS</th></tr>
<tr><th>Income Category</th><th colspan="4">Minimum % of Affordable Units</th><th>Major Transit Stop</th></tr>
<tr><td>Very Low Income</td><td>5%</td><td>10%</td><td>15%</td><td rowspan="2">80%</td><td rowspan="3">Within 0.5 mile</td></tr>
<tr><td>Low Income</td><td>10%</td><td>20%</td><td>30%</td></tr>
<tr><td>Common Interest Development (Moderate-Income)</td><td>10%</td><td>20%</td><td>30%</td><td>20%</td></tr>
<tr><td>Incentives Allowed</td><td>1</td><td>2</td><td>3</td><td>41</td><td>---</td></tr>
<tr><td colspan="6">1. See additional incentives in Section 11.30.110(B)(4).1</td></tr>
</table>

C. **Criteria for Denial of Application for Incentives.** Except as otherwise provided in this chapter or by state law, if the requirements of Section 11.30.110.A are met, the County shall grant the incentive(s) that are authorized by Section 11.30.110 unless a written finding, based upon substantial evidence, is made with respect to any of the following, in which case the County may refuse to grant the incentive(s):

1. The incentive is not required to provide affordable housing costs or affordable rents for the affordable units subject to the qualified housing development application (Government Code Section 65915(d)(1)(A)).

2. The incentive would have a specific, adverse impact, as defined in Government Code Section 65589.5(d)(2), upon the 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 (Government Code Sections 65915(d)(1)(B) and 65915 (d)(3)).

3. The incentive would be contrary to state or federal law (Government Code Section 65915(d)(1)(C)).

4. The community has adequate childcare facilities, in which case the additional incentive for a childcare facility, pursuant to Subsection 11.30.060, may be denied (Government Code Section 65915(h)(3)).

D. Requirements for Waiver or Modification of Development Standards

1. To qualify for a waiver or reduction of one or more development standards, the applicant must submit a written application (together with an application for a qualified housing development) that states the specific development standard(s) sought to be modified or waived and the basis of the request (Government Code Section 65915(e)(1)). An applicant for a waiver or modification of development standard(s) pursuant to this section may request a meeting with the County to review the proposal. If requested, the County shall meet with the applicant (Government Code Section 65915(e)(1)). An application for the waiver or reduction of development standard(s) pursuant to this section shall neither reduce nor increase the number of incentives to which the applicant is entitled pursuant to Section 11.30.110.B (Government Code Section 65915(e)(2)).

2. All of the following findings must be made for each waiver or reduction requested:

   a. The development standard for which a waiver or reduction is requested will have the effect of physically precluding the construction of the proposed qualified housing development at the densities or with the incentives permitted under this chapter (Government Code Section 65915(e)(1)).

   b. The requested waiver or reduction of a development standard will not have a specific, adverse impact, as defined in Government Code Section 65589.5(d)(2), upon the health, safety, and/or physical environment or, if such a specific, adverse impact exists, there is a feasible method to satisfactorily mitigate or avoid the specific, adverse impact (Government Code Section 65915(e)(1)).

   c. The requested waiver or reduction of a development standard will not have an adverse impact on any real property that is listed in the California Register of Historical Resources (Government Code Section 65915(e)(1)).

   d. The requested waiver or reduction of a development standard is not contrary to state or federal law (Government Code Section 65915(e)(1)).

3. If the requirements of Subsection 11.30.110.D.1 and 2. are satisfied, the application for waiver or modification of development standard(s) shall be granted, and the County shall not apply a development standard that will have the effect of physically precluding the construction of a qualified housing development at the densities or with the incentives permitted by this chapter (Government Code Section 65915(e)(1)).

A housing development that receives a waiver from any maximum controls on density shall only be eligible for a waiver or reduction of development standards pursuant to Section 11.30.110.D.1 and 2. unless the County agrees to additional waivers or reductions of development standards (Government Code Section 65915(e)(3)).

11.30.120 Maximum Parking Requirements

A. Parking standard modifications pursuant to Subsection 11.30.120.B are available only for qualified housing developments. An application for parking standard modifications stating the specific modification requested pursuant to Subsection 11.30.120.B must be submitted with the qualified housing development application (Government Code Section 65915(p)(3)).

B. The maximum parking requirements, inclusive of parking for persons with a disability and guests, of a development meeting the criteria of Section 11.25.020 shall not exceed the following ratios if the applicant requests the use of such alternative standards:

   1. Zero to one bedroom: one on-site parking space.

2. Two to three bedrooms: one and one-half on-site parking spaces.

3. Four or more bedrooms: two and one-half parking spaces.

C. 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.

D. For purposes of this subsection, a development may provide "on-site parking" through tandem parking or uncovered parking, but not through on-street parking.

E. **Exceptions.** Upon request of the applicant, the following maximum parking standards shall apply, inclusive of parking for persons with a disability and guest parking, to the entire housing development subject to this chapter, as required by Government Code Section 65915(p)(2):

1. A maximum of 0.5 parking spaces per bedroom shall apply when all the following conditions apply:

a. The development includes at least 20-percent low-income units or at least 11-percent very low-income units provided for in Section 11.30.050 (Density Bonus Allowance for Housing Development with Affordable Housing Component). The development is located within 0.5 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.

2. No parking ratio shall apply when all of the following conditions apply:

a. The 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 and the development meets either of the following criteria:

i. The development is located within one-half-mile of a major transit stop and there is unobstructed access to the major transit stop from the development.

ii. 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 and the development has either paratransit service or unobstructed access, within one-half-mile, to fixed bus route service that operates at least eight times per day.

b. The 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, and the development is either a special-needs housing development, as defined in Section 51312 of the Health and Safety Code, or a supportive housing development, as defined in Section 50675.14 of the Health and Safety Code. A development that is a special-needs housing 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.

F. If the total number of parking spaces required for the qualified housing development is other than a whole number, the number shall be rounded up to the next whole number. For purposes of this section, "on-site parking" may be provided through tandem parking or uncovered parking, but not through on-street parking (Government Code Section 65915(p)(2)).

G. Except as otherwise provided in this section, all other provisions of Chapter 11.25.040 (Parking

Space Requirements) applicable to residential development apply.

H. An applicant may request additional parking incentives beyond those provided in this section if applied for pursuant to Section 11.30.110 (Government Code Section 65915(p)(3)).

I. Notwithstanding allowances in Subsection 11.30.120.C, if the County or an independent consultant has conducted an area-wide or jurisdiction-wide parking study in the last seven years, then the County may impose a higher vehicular parking ratio not to exceed the ratio described previously in Subsection 11.30.120.B, based on 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 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 County shall pay the costs of any new study. The County shall make findings, based on a parking study completed in conformity with this paragraph, supporting the need for the higher parking ratio.

11.30.130 Density Bonus and Affordable Housing Incentive Program

A. **Project Design and Phasing.** Projects seeking an affordable housing benefit pursuant to this chapter must comply with the following requirements, unless otherwise specified in writing by the County:

1. **Location/Dispersal of Units.** Affordable units shall be reasonably dispersed throughout the development where feasible and shall contain, on average, the same (or greater) number of bedrooms as the market-rate units.

2. **Phasing.** If a project is to be developed in phases, each phase must contain the same or substantially similar proportion of affordable units and market-rate units.

3. **Exterior Appearance.** The exterior appearance and quality of the affordable units must be similar to the market-rate units. The exterior materials and improvements of the affordable units must be similar to, and architecturally compatible with, the market-rate units.

B. **Application Requirements.** An application for one or more affordable housing benefits must be submitted as follows:

1. Each affordable housing benefit requested must be specifically stated in writing on the application form provided by the County.

2. The application must include the information and documents necessary to establish that the requirements of this chapter are satisfied for each affordable housing benefit requested, including:

a. For density bonus requests, that the requirements of Section 11.30.040 are met;

b. For incentive requests, that the requirements of Section 11.30.110 are met;

c. For development standard waiver or modification requests, that the requirements of Section 11.30.110.D are met; and/or

d. For parking standard modification requests, that the requirements of Section 11.30.120 are met.

3. The application must be submitted concurrently with a complete application for a qualified housing development. When notifying the applicant for a density bonus whether the application is complete, the County shall also notify the applicant of the amount of density

bonus for which the applicant is eligible, and if requested by the applicant, the parking ratio for which the applicant is eligible.

4. If the applicant requests incentives or concessions, or waivers or reductions of development standards, the County will now also be required to notify the applicant whether the applicant has provided adequate information for the County to make a determination as to those incentives, concessions, or waivers or reductions of development standards.

5. The application must include a site plan that complies with and includes the following:

    a. For senior citizen housing development projects, the number and location of proposed total units and density bonus units.

    b. For all qualified housing development projects other than senior citizen housing development projects, the number and location of proposed total units, affordable units, and density bonus units. The density bonus units shall be permitted in geographic areas of the qualified housing development other than the areas where the affordable units are located (Government Code Section 65915(i)).

    c. The location, design, and phasing criteria required by Subsection 11.30.130.A, including any proposed development standard(s) modifications or waivers pursuant to Section 11.30.110.D.

6. The application for a qualified housing development must state the level of affordability of the affordable units and include a proposal for compliance with Section 11.30.140 for ensuring affordability.

7. If a density bonus is requested for a qualified land donation pursuant to Section 11.30.080, the application must show the location of the qualified land in addition to including sufficient information to establish that each requirement in Section 11.30.080 has been met.

8. If an additional density bonus or incentive is requested for a childcare facility pursuant to Section 11.30.060 and/or Subsection 11.30.110.B, the application shall show the location and square footage of the childcare facility in addition to including sufficient information to establish that each requirement in Section 11.30.060 and/or Subsection Section 11.30.110.B has been met.

C. An application for an affordable housing benefit under this chapter will not be processed until all of the provisions of this section are complied with as determined by the County and shall be processed concurrently with the application for the qualified housing development project for which the affordable housing benefit is sought. Prior to the submittal of an application for a qualified housing development, an applicant may submit to the County a preliminary proposal for affordable housing benefits.

D. The County shall adjust the amount of density bonus and parking ratios awarded based on any changes to the project during the course of development.

E. **Determination on Density Bonus and Affordable Housing Incentive Program Requirements.** The decision-making body for the underlying qualified housing development application is authorized to approve or deny an application for an affordable housing benefit in accordance with this chapter.

1. **Affordable Housing Benefit Determinations.** An application for an affordable housing benefit shall be granted if the requirements of this chapter are satisfied, unless:

a. The application is for an incentive for which a finding is made in accordance with Section 11.30.110.C; or

b. The underlying application for the qualified housing development is not approved independent of and without consideration of the application for the affordable housing benefit.

2. **Affordable Housing Benefit Compliance Provisions.** To ensure compliance with this chapter and state law, approval of an application for an affordable housing benefit may be subject to, without limitation:

a. The imposition of conditions of approval to the qualified housing development, including imposition of fees necessary to monitor and enforce the provisions of this chapter;

b. An affordable housing agreement and, if applicable, an equity-sharing agreement pursuant to Section 11.30.140; and

c. Recorded deed restriction implementing conditions of approval and/or contractual or legally mandated provisions.

3. A decision regarding an affordable housing benefit application is subject to the appeal provisions of Section 11.53.150 (Appeals and Calls for Review).

11.30.140 Affordable Housing Agreement and Equity-Sharing Agreement

A. **General Requirements.** The County shall require the execution of an affordability agreement with the affordable housing developer, or its designee approved in writing by the County, as a condition of approval. The County may designate a qualified administrator or entity to administer the provisions of this section on behalf of the County. The affordable housing agreement shall be recorded prior to, or concurrently with, final map recordation or, where the qualified housing development does not include a map, prior to issuance of a Building Permit for any structure on the site. The County is hereby authorized to enter into the agreements authorized by this section on behalf of the County upon approval of the agreements by County Counsel for legal form and sufficiency. Said agreement shall be in the form provided by the County to include, but not be limited to, the following:

1. Term of agreement necessary to implement state law and this section.

2. Description of project, including location, number of total units (including bedrooms), and number of reserved affordable units (including bedrooms).

3. Standards for qualifying household incomes and maximum rents or sale prices.

4. Process used to certify tenant income.

5. Description of how vacancies will be marketed and filled.

6. Enforcement mechanisms restricting reserved affordable units upon sale or transfer.

7. Process used to monitor and enforce affordability of reserved units.

B. Low- or Very Low-Income Minimum Affordable Housing Component or Senior Citizen Housing Development

1. The affordable housing developer of a qualified housing development based upon the inclusion of low-income and/or very low-income affordable units must enter into an agreement with the County to maintain the continued affordability of the affordable units for 55 years (for rental units) or 30 years (applies to for-sale units), or a longer period if

required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program, as follows (Government Code Section 65915(c)(1)). The agreement shall establish specific compliance standards and specific remedies available to the County if such compliance standards are not met. The agreement shall, among other things, specify the number of lower-income affordable units by number of bedrooms; standards for qualifying household incomes or other qualifying criteria, such as age; standards for maximum rents or sales prices; the person responsible for certifying tenant or owner incomes; procedures by which vacancies will be filled and units sold; required annual report and monitoring fees; restrictions imposed on lower-income affordable units on sale or transfer; and methods of enforcing such restrictions.

2. **Rental Units.** Rents for the low-income and very low-income affordable units that qualified the housing development for the density bonus pursuant to Section 11.30.040 shall be set and maintained at an affordable rent (Government Code Section 65915(c)(1)). The agreement shall set rents for the lower-income density bonus units at an affordable rent, as defined in California Health and Safety Code Section 50053. The agreement shall require that owner-occupied units be made available at an affordable housing cost, as defined in the Health and Safety Code Section 50052.5.

3. **For-Sale Units.** Owner-occupied low-income and very low-income affordable units that qualified the housing development for the density bonus pursuant to Section 11.30.040 shall be available at an affordable housing cost (Government Code Section 65915(c)(1)). The affordable housing developer of a qualified housing development based upon a very low- or low-income minimum affordable component shall enter into an equity-sharing agreement with the County or developer. The agreement shall be between the County and the buyer or the developer and the buyer if the developer is the seller of the unit. The County shall enforce the equity sharing unless it is in conflict with the requirements of another public funding source or law (Government Code Section 65915(c)(2)). The equity-sharing agreement shall include, at a minimum, the following provisions:

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

   b. For purposes of this section, the County'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 very low-income household, plus the amount of any down payment assistance or mortgage assistance. If upon resale the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value.

   c. For purposes of this subdivision, the County's proportionate share of appreciation shall be equal to the ratio of the County's initial subsidy to the fair-market value of the home at the time of initial sale.

4. **Senior Units.** At least 35 senior-citizen housing development units are maintained and available for rent or sale to senior citizens, as defined in Civil Code Section 51.3.

C. Moderate-Income Minimum Affordable Housing Component.

1. The affordable housing developer of a qualified housing development based upon the

inclusion of moderate-income affordable units in a common interest development must enter into an agreement with the County ensuring that:

a. The initial occupants of the moderate-income affordable units that are directly related to the receipt of the density bonus are persons and families of a moderate-income household.

b. The units are offered at an affordable housing cost (Government Code Section 65915(c)(2)).

2. The affordable housing developer of a qualified housing development based upon a moderate-income minimum affordable component shall enter into an equity-sharing agreement with the County or developer (Government Code Section 65915(c)(2)). The agreement shall be between the County and the buyer or the developer and the buyer if the developer is the seller of the unit. The County shall enforce the equity-sharing agreement unless it is in conflict with the requirements of another public funding source or law (Government Code Section 65915(c)(2)). The equity-sharing agreement shall include, at a minimum, the following provisions:

a. Upon resale, the seller of the unit shall retain the value of improvements, the down payment, and the seller's proportionate share of appreciation. The County 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 Health and Safety Code Section 33334.2(e) that promote homeownership (Government Code Section 65915(c)(2)(A)).

b. The County's initial subsidy shall be equal to the fair-market value of the unit at the time of initial sale minus the initial sale price to the moderate-income household, plus the amount of any down payment assistance or mortgage assistance. If upon resale the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value (Government Code Section 65915(c)(2)(B)).

c. The County's proportionate share of appreciation shall be equal to the ratio of the County's initial subsidy to the fair market value of the unit at the time of initial sale (Government Code Section 65915(c)(2)(C)).

3. **Minimum Affordable Housing Component and Childcare Facility.** If an additional density bonus or incentive is granted because a childcare facility is included in the qualified housing development, the affordable housing agreement shall also include the affordable housing developer's obligations pursuant to Subsection 11.30.060.A(3) for maintaining a childcare facility, if not otherwise addressed through conditions of approval.

D. 100-Percent Affordable Housing Development

1. At least 20 percent of the units, including both base density and density bonus units, in a qualified housing development shall be restricted to an affordable rent, as defined in Section 50053 of the Health and Safety Code, for at least 55 years.

2. The remaining units may be rented at an amount consistent with the maximum rent levels for a housing development that receives an allocation of state or federal low-income housing tax credits from the California Tax Credit Allocation Committee.

11.30.150 Allowed Density Bonus or Incentives for Condominium Conversion Projects

A. **Requirements for Density Bonus or Incentive for Condominium Conversion Projects.**

1. Applicant to convert apartments to a condominium project agrees to provide at least:

   a. 33 percent of the total units of the proposed condominium project to persons and families of moderate-income households, or

   b. 15 percent of the total units of the proposed condominium project to persons and families of low-income households.

2. If applicant agrees to pay for the reasonably necessary administrative costs incurred by the County pursuant to this section, the County shall either:

   a. Grant a density bonus, or

   b. Provide other incentives of equivalent financial value (Government Code Section 65915.5(a)).

B. **Definition of Density Bonus for Condominium Conversion Projects.** If the requirements of Subsection 11.30.150.A are met, then the condominium conversion project will be entitled to an increase in units of 25 percent over the number of apartments, to be provided within the existing structure or structures proposed for conversion from apartments to condominiums (Government Code Section 65915.5(b)).

C. **Pre-Submittal Preliminary Proposals for Density Bonus or Incentive for Condominium Conversion Projects.** Prior to the submittal of a formal request for subdivision map approval or other application for necessary discretionary approvals, an applicant to convert apartments to a condominium project may submit to the County a preliminary proposal for density bonus or other incentives of equivalent financial value.

D. **Application for Density Bonus or Incentives for Condominium Conversion Projects.** An applicant must submit a completed application provided by the County for a density bonus or for other incentives of equivalent financial value. The application must be submitted concurrently with the application for the condominium conversion project. The application must include the following:

1. All information and documentation necessary to establish that the requirements of Subsection 11.30.150.A are met.

2. The proposal for a density bonus or the proposal for other incentives of equivalent financial value.

3. Site plans demonstrating the location of the units to be converted, the affordable units, the market-rate units, and the density bonus units in the condominium conversion project.

4. Any other information and documentation requested by the County to determine if the requirements of Subsection 11.30.150.A are met.

E. Both the application for a density bonus or other incentives of equivalent financial value and the application for the condominium conversion must be complete before the application for a density bonus or other incentives of equivalent financial value will be considered.

F. **Granting Density Bonus or Incentive for Condominium Conversion Projects**

1. Approval

   a. If the requirements of Subsection 11.30.150.A are met, the decision-making body for the condominium conversion project application is authorized to grant an application for a density bonus or other incentives of equivalent financial value, subject to Subsection 11.30.150.F(2).

b. Reasonable conditions may be placed on the granting of a density bonus or other incentives of equivalent financial value that are found appropriate, including, but not limited to, entering into an affordable housing agreement pursuant to Section 11.30.140 (Affordable Housing Agreement and Equity- Sharing Agreement), which ensures continued affordability of units to subsequent purchasers who are persons and families of moderate-income households or low-income households (Government Code Section 65915.5(a)).

2. Ineligibility. An applicant shall be ineligible for a density bonus or other incentives of equivalent financial value if the apartments proposed for conversion constitute a qualified housing development for which a density bonus, as defined in Section 11.30.040 (Qualifying Projects) or other incentives were provided (Government Code Section 65915.5(f)).

3. Decision on Condominium Conversion Project. Nothing in this section shall be construed to require the County to approve a proposal to convert apartments to condominiums (Government Code Section 65915.5(e)).

11.30.160 Enforcement Provisions

A. **Occupancy.** Prior to occupancy of an affordable unit, the household's eligibility for occupancy of the affordable unit must be demonstrated to the County. This provision applies throughout the restricted time periods pursuant to Section 11.30.140 (Affordable Housing Agreement and Equity-Sharing Agreement) and applies to any change in ownership or tenancy, including subletting, of the affordable unit.

B. **Ongoing Compliance.** Upon request, the affordable housing developer must show that the affordable units are continually in compliance with this chapter and the terms of the affordable housing agreement. Upon 30-day notice, the County may perform an audit to determine compliance with this chapter and the terms of any agreement or restriction.

C. **Enforcement.** The County has the authority to enforce the provisions of this chapter, the terms of affordable housing agreements and equity-sharing agreements, deed restrictions, covenants, resale restrictions, promissory notes, deed of trust, conditions of approval, permit conditions, and any other requirements placed on the affordable units or the approval of the qualified housing development. In addition to the enforcement powers granted in this chapter, the County may, at its discretion, take any other enforcement action permitted by law, including those authorized by County ordinances. Such enforcement actions may include, but are not limited to, a civil action for specific performance of the restrictions and agreement(s), damages for breach of contract, restitution, and injunctive relief. The remedies provided for herein shall be cumulative and not exclusive and shall not preclude the County from seeking any other remedy or relief to which it otherwise would be entitled under law or equity.