

**PLANNING COMMISSION
RESOLUTION NO. 2024-22**

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ANTIOCH
RECOMMENDING THE CITY COUNCIL ADOPT AN ORDINANCE REPEALING AND
REPLACING TITLE 9, CHAPTER 5, ARTICLE 35 OF THE ANTIOCH MUNICIPAL
CODE, DENSITY BONUS PROGRAM, TO COMPLY WITH THE STATE DENSITY
BONUS LAW, AND FINDING THE ACTION EXEMPT FROM THE CALIFORNIA
ENVIRONMENTAL QUALITY ACT (CEQA)**

WHEREAS, California's Density Bonus Law (Government Code § 65915 et seq.) encourages developers to build affordable housing (e.g., very low-, low- and moderate-income units) by requiring cities to grant a density bonus, concessions, incentives, and waivers of developments standards for projects that commit certain percentages of their units to affordable housing;

WHEREAS, California Government Code § 65915(a) requires that local governments adopt an ordinance that specifies how compliance with State Density Bonus Law will be implemented;

WHEREAS, Title 9, Chapter 5, Article 35 of the Antioch Municipal Code contains regulations implementing the State Density Bonus Law;

WHEREAS, Antioch Municipal Code Title 9, Chapter 5, Article 35 was last amended via Ordinance No. 2190-C-S, adopted on August 25, 2020;

WHEREAS, this ordinance ("Ordinance") repeals and replaces Antioch Municipal Code Title 9, Chapter 5, Article 35 to adopt the State Density Bonus Law by reference and make additional changes to implement the State Density Bonus Law within Antioch. As amended by this Ordinance, Antioch Municipal Code Title 9, Chapter 5, Article 35 will provide that density bonuses and other affordable housing incentives required by State law (including but not limited to Government Code § 65915 et seq.) will be available to applicants on the terms and conditions specified in State law;

WHEREAS, adopting the State Density Bonus Law by reference will ensure the Municipal Code remains current whenever the State Legislature amends the State Density Bonus Law;

WHEREAS, the adoption of this Ordinance is exempt from CEQA pursuant to CEQA Guidelines § 15061(b)(3) – Common Sense Exemption in that the proposed ordinance would only establish and clarify administrative processes required by State law and would not approve new construction or other groundbreaking activities. There is no potential to result in either a direct physical change to the environment or a reasonably foreseeable indirect physical change to the environment. This determination reflects the City's independent judgment and analysis;

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WHEREAS, the Planning Commission duly gave notice of public hearing as required by law;

WHEREAS, on November 20, 2024, the Planning Commission duly held a public hearing on the matter, and received and considered public comments and evidence, both oral and documentary;

WHEREAS, the Planning Commission considered all public comments received, the presentation by City staff, the staff report, and all other pertinent documents regarding the proposed request.

NOW, THEREFORE, BE IT RESOLVED AND DETERMINED, that the Planning Commission does hereby make the following findings for recommending the City Council adopt an ordinance repealing and replacing Title 9, Chapter 5, Article 35 of the Antioch Municipal Code, Density Bonus Program, to comply with the state density bonus law, per § 9-5.2802(B) of the Antioch Municipal Code:

The public necessity, convenience, and general welfare require these amendments in that the purpose of the Ordinance is to ensure that the City's Municipal Code will comply with, implement, and adopt by reference State Density Bonus Law, as well as ensure that density bonus units are of a high quality.

NOW, THEREFORE, BE IT FURTHER RESOLVED AND DETERMINED, that the Planning Commission hereby recommends City Council APPROVAL of the proposed ordinance, contained within Exhibit A.

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I HEREBY CERTIFY that the foregoing resolution was adopted by the Planning Commission of the City of Antioch at a regular meeting thereof held on the 20th day of November 2024, by the following vote:

AYES: Commissioners Riley, Webber, Jones, Lutz, And Martin

NOES: None

ABSTAIN: None

ABSENT: Commissioner Hills

Kevin Scudero

KEVIN SCUDERO
Secretary to the Planning Commission

**EXHIBIT A
PROPOSED ORDINANCE**

ORDINANCE NO. XXXX-C-S

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANTIOCH REPEALING AND REPLACING TITLE 9, CHAPTER 5, ARTICLE 35 OF THE ANTIOCH MUNICIPAL CODE, DENSITY BONUS PROGRAM, TO COMPLY WITH THE STATE DENSITY BONUS LAW, AND FINDING THE ACTION EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

WHEREAS, California's Density Bonus Law (Government Code §§ 65915 et seq.) encourages developers to build affordable housing (e.g., very low-, low- and moderate-income units) by requiring cities to grant a density bonus, concessions, incentives, and waivers of developments standards for projects that commit certain percentages of their units to affordable housing;

WHEREAS, California Government Code section 65915(a) requires that local governments adopt an ordinance that specifies how compliance with State Density Bonus law will be implemented;

WHEREAS, Title 9, Chapter 5, Article 35 of the Antioch Municipal Code contains regulations implementing the State Density Bonus Law;

WHEREAS, Antioch Municipal Code Title 9, Chapter 5, Article 35 was last amended via Ordinance No. 2190-C-S, adopted on August 25, 2020;

WHEREAS, this ordinance ("Ordinance") repeals and replaces Antioch Municipal Code Title 9, Chapter 5, Article 35 to adopt the State Density Bonus Law by reference and make additional changes to implement the State Density Bonus Law within Antioch. As amended by this Ordinance, Antioch Municipal Code Title 9, Chapter 5, Article 35 will provide that density bonuses and other affordable housing incentives required by State law (including but not limited to Government Code sections 65915 et seq.) will be available to applicants on the terms and conditions specified in State law;

WHEREAS, adopting the State Density Bonus Law by reference will ensure the Municipal Code remains current whenever the State Legislature amends the State Density Bonus Law;

WHEREAS, on November 20, 2024, the Planning Commission held a duly noticed public hearing to consider the proposed Ordinance related to density bonus, received the staff report and staff presentation, received comments from the public and interested parties, and discussed the matter. Following the public hearing, the Planning Commission adopted Resolution No. [Planning Commission Resolution #] recommending the City Council adopt the proposed Ordinance;

WHEREAS, on [date], the City Council held a duly noticed public hearing to consider the proposed Ordinance related to density bonus, received the staff report and staff presentation, received comments from the public and interested parties, considered the recommendation of the Planning Commission and discussed the matter; and

WHEREAS, all legal prerequisites to the adoption of the Ordinance have occurred.

The City Council of the City of Antioch does ordain as follows:

SECTION 1: Recitals

The recitals above are true and correct and are hereby adopted as findings as if fully set forth herein.

SECTION 2: Findings

The City Council finds that the Ordinance is necessary to further the public necessity, convenience, and general welfare in that the purpose of the Ordinance is to ensure that the City's Municipal Code will comply with, implement, and adopt by reference State Density Bonus Law, as well as ensure that density bonus units are of a high quality.

SECTION 3: City Council Review

The City Council has reviewed, considered, and evaluated all of the information prior to acting upon Ordinance.

SECTION 4: Record of Proceedings

The documents and other materials that constitute the record of proceedings upon which the City Council has based its recommendation are located in and may be obtained from the City of Antioch's Clerk's Office, 200 H Street, Antioch, CA 94509

SECTION 5: Amendment

Title 9, Chapter 5, Article 35 of the Antioch Municipal Code is hereby amended to read as follows:

§ 9-5.3501 Purpose.

The purpose of this Article is to establish a program in accordance with California Government Code § 65915 et seq. to provide both density increases and other incentives to encourage the creation of housing affordable to moderate-, low-, and very low-income households, seniors, and other qualifying households under State law.

§ 9-5.3502 Applicability.

(A) General. All proposed housing developments that qualify under California Government Code § 65915 for a density increase and other incentives, and any qualified land transfer under California Government Code § 65915 shall be eligible to apply for a density bonus (including incentives and/or

- concessions) consistent with the requirements, provisions and obligations set forth in California Government Code § 65915, as it may be amended from time to time.
- (B) Compliance. The applicant shall comply with all requirements stated in California Government Code § 65915 et seq. The requirements of California Government Code § 65915 et seq., and any amendments thereto, shall prevail over any conflicting provision of this Code.
 - (C) Excluded Development. An applicant shall not receive a density bonus or any other incentive or concession if the housing development would be excluded under California Government Code § 65915.
 - (D) Interpretation. The provisions of this subdivision shall be interpreted to implement and be consistent with the requirements of California Government Code § 65915. Any changes to California Government Code § 65915 shall be deemed to supersede and govern over any conflicting provisions contained herein. If any portion of this Article conflicts with State Density Bonus Law or other applicable State law, State law shall supersede this Section. Any ambiguities in this Section shall be interpreted to be consistent with State Density Bonus Law.
 - (E) Replacement Housing Requirement. Pursuant to California Government Code § 65915(c)(3), an applicant will be ineligible for a density bonus or other incentives unless the applicant complies with the replacement housing requirements therein.
 - (F) Affordable Units. The density bonus units may also be referred to herein as the affordable units.

§ 9-5.3503 Density Increase and Other Incentives.

- (A) General. If a qualifying affordable housing project or land transfer/cash payment meets the criteria of California Government Code § 65915 et seq., the project shall be granted a density bonus, the amount of which shall be as specified in California Government Code § 65915 et seq., and incentives or concessions also as described in California Government Code § 65915 et seq.
- (B) Density Bonus Units. Except as otherwise required by California Government Code § 65915, the density bonus units shall not be included when calculating the total number of housing units that qualifies the housing development for a density bonus.
- (C) Market-rate senior citizen housing developments. Market-rate senior citizen housing developments that qualify for a density bonus shall not receive any other incentives or concessions, unless California Government Code § 65915 is amended to specifically require that local agencies grant incentives or concessions for senior citizen housing developments.

§ 9-5.3504 Physical Constraints and Parking Waivers.

(A) Physical Constraints. Except as restricted by California Government Code § 65915, the applicant for a density bonus may submit a proposal for the waiver or reduction of development standards that have the effect of physically precluding the construction of a housing development incorporating the density bonus and any incentives or concessions granted to the applicant. A request for a waiver or reduction of development standards shall be accompanied by documentation demonstrating that the waiver or reduction is physically necessary to construct the housing development with the additional density allowed pursuant to the density bonus and incorporating any incentives or concessions required to be granted. The City shall approve a waiver or reduction of a development standard, unless it finds that:

- (1) The application of the development standard does not have the effect of physically precluding the construction of a housing development at the density allowed by the density bonus and with the incentives or concessions granted to the applicant;
- (2) The waiver or reduction of the development standard would have a specific, adverse impact, as defined in § 65589.5(d)(2), upon the health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact;
- (3) The waiver or reduction of the development standard would have an adverse impact on any real property that is listed in the California Register of Historical Resources; or
- (4) The waiver or reduction of the development standard would be contrary to state or federal law.

(B) Parking. The applicant may request, and the City shall grant, a reduction in parking requirements in accordance with California Government Code § 65915(p), as that section may be amended from time to time.

§ 9-5.3505 Application Procedure for Density Increase or Other Incentives.

(A) Application Requirements. An application for a density increase or other incentives under this Article for a housing development shall be submitted in writing to the City to be processed concurrently with all other entitlements of the proposed housing development. The application for a housing development shall contain information sufficient to fully evaluate the request under the requirements of this Article, and in connection with the project for which the request is made, including, but not limited to, the following:

- (1) A brief description of the proposed housing development;
- (2) The total number of housing units and/or shared housing units (as defined in California Government Code § 65915(o)(6)) proposed in the development project, including unit sizes and number of bedrooms;

- (3) The total number of units proposed to be granted through the density increase and incentive program over and above the otherwise maximum density for the project site;
 - (4) The total number of units to be made affordable to or reserved for sale, or rental to, very low-, low- or moderate-income households, or senior citizens, or other qualifying residents;
 - (5) The zoning, general plan designations, and assessor's parcel number(s) of the project site;
 - (6) A vicinity map and preliminary site plan, drawn to scale, including building footprints, driveway(s) and parking layout;
 - (7) The proposed method of ensuring the continued availability of the density bonus units;
 - (8) Within zones that rely on a form-based code, a base density study that identifies the density feasible on the site without incentives, concessions or density bonuses; and
 - (9) A list of any concession(s) or incentive(s) being requested to facilitate the development of the project, and a description of why the concession(s) or incentive(s) is needed.
- (B) Application Processing. The application shall be considered by the Zoning Administrator, Planning Commission and/or the City Council at the same time each considers the project for which the request is being made. If the project is not to be otherwise considered by the Zoning Administrator, Planning Commission or the City Council, the request being made under this Article shall be considered by the Community Development Director or designee, separately. The request shall be approved if the applicant complies with the provisions of California Government Code § 65915 et seq.

§ 9-5.3506 Development Standards of Affordable Units.

- (A) Design. The design of all units within a density bonus housing project shall be consistent with the General Plan, any applicable specific plan, the Zoning Ordinance or applicable planned development zoning, and any applicable design standards as adopted by the City Council.
- (1) The affordable units shall be comparable in exterior appearance and quality of construction to the market-rate units in the same development, as further specified herein.
- (B) Size. The size of affordable units shall be the same size as the market rate units in the development. For the purposes of this section, "same size" shall mean that the affordable units shall satisfy all of the following requirements:
- (1) The number of bedrooms in an affordable units shall be the same as the number of bedrooms in the market rate units. If the market rate units have varied numbers of bedrooms, the distribution of the number of bedrooms in the affordable units shall be the same percentages as in the market rate units;

- (2) The square footage of an affordable unit shall be no less than ninety percent (90%) of the median square footage of the market rate units with the same number of bedrooms;
 - (3) If the affordable unit is alienable separate from the title to any other dwelling unit, the parcel on which the affordable unit is located shall be no less than ninety percent (90%) of the median square footage of the parcels on which market rate units with the same number of bedrooms are located.
- (C) Distribution. The affordable units shall be integrated with the market rate units so as not to be located in only one portion of the development or be situated within only one building in a development that contains multiple buildings. Without limiting the foregoing, in no event shall an affordable unit be adjacent to more than one other affordable unit (unless the adjacent affordable unit is located on a different floor in a multi-floor building). The City Council may waive this requirement if the affordable units will be located within one building in order to obtain tax credit financing or other financial assistance from a governmental agency.
- (D) Access. Residents of affordable units shall be entitled to use all of the same amenities and facilities of the residential development as residents of market rate units within the residential development.

§ 9-5.3507 Deed Restriction.

- (A) Consistent with the provisions of California Government Code § 65915 et seq., any applicant who receives a density increase or other incentives for a project shall be required to execute an appropriate deed restriction to be recorded on the property on which the project is located to ensure the continued availability of the density bonus units. The deed restriction shall be in a form approved by the City of Antioch and shall be executed prior to the issuance of the first building permit for the project, unless an alternative time is approved by the City.
- (B) The deed restriction shall require the affordable units to be made available for occupancy concurrent with, or prior to, when the market rate units are made available for occupancy. If the market rate units are made available for occupancy in phases, the affordable units may be made available for occupancy in phases, such that the same percentage of affordable units are made available as the percentage of market rate units in each phase.

SECTION 6: CEQA

The City Council finds that adoption of this Ordinance is exempt from CEQA pursuant to CEQA Guidelines § 15061(b)(3) – Common Sense Exemption in that the proposed ordinance would only establish and clarify administrative processes required by State law and would not approve new construction or other groundbreaking activities. There is no potential to result in either a direct physical change to the environment or a reasonably

foreseeable indirect physical change to the environment. This determination reflects the City's independent judgment and analysis.

SECTION 7: Severability

Should any provision of this Ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unreasonable, or otherwise void, that determination shall have no effect on any other provision of this Ordinance or the application of this Ordinance to any other person or circumstance and, to that end, the provisions hereof are severable.

SECTION 8: Publication; Effective Date

This Ordinance shall take effect and be enforced within thirty (30) days from and after the date of its adoption by the City Council at a second reading and shall be posted and published in accordance with the California Government Code.

I HEREBY CERTIFY that the foregoing ordinance was introduced at a regular meeting of the City Council of the City of Antioch, held on the ___ day of ___ 2024, and passed and adopted at a regular meeting thereof, held on the ___ day of ___ 2024, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

MAYOR OF THE CITY OF ANTIOCH

ATTEST:

CITY CLERK OF THE CITY OF ANTIOCH






2024-22_Density Bonus Update

Final Audit Report

2024-12-05

Created:	2024-12-05
By:	Monique Villagrana (mvillagrana@antiochca.gov)
Status:	Signed
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-  Document created by Monique Villagrana (mvillagrana@antiochca.gov)
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-  Document emailed to Kevin Scudero (kscudero@ci.antioch.ca.us) for signature
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-  Document e-signed by Kevin Scudero (kscudero@ci.antioch.ca.us)
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