

**18.107.120 - Residential projects—County incentives.**

- A. Residential projects that include the construction of affordable units in conformance with Sections 18.107.080, 18.107.100, or 18.107.110 are eligible for the following county incentives:
  - 1. Application fees for building permits shall be waived for the affordable units.
  - 2. Subject to the approval of the planning director, the square footage of the affordable units and interior features in affordable units need not be the same as those in market rate units in the same residential project, so long as they are of good quality and are consistent with contemporary standards for new housing.
  - 3. In a residential project which contains single-family detached homes, affordable units may be attached dwelling units.
  - 4. The county shall expedite permit processing.
- B. If an applicant requests a state density bonus or state incentives pursuant to Sections 18.107.170 and 18.107.180, the incentives listed in this section may be provided only if each is individually requested as a state incentive pursuant to Section 18.107.170.
- C. Each of these incentives is a regulatory incentive that results in identifiable, financially sufficient, and actual cost reductions and is a form of assistance specified in Chapter 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code.

**18.107.150 – Reserved**

**18.107.160 – Reserved**

**18.107.170 - State incentives for affordable housing—Application procedures and development standards.**

The purpose of this section and Section 18.107.180 is to implement state density bonus law (Government Code Section 65915 *et seq.*).

- A. An applicant for a “housing development” as defined in state density bonus law shall be eligible for a density bonus and other regulatory benefits that are provided by state density bonus law when the applicant seeks and agrees to provide housing as specified in Government Code Section 65915, or in Government Code Section 65195.5, or successor provisions. The density bonus calculations shall be made in accordance with state density bonus law.
- B. All requests for density bonuses, incentives, parking reductions, and waivers shall be submitted concurrently with the application for the first discretionary permit or other permit required for the housing development and shall be processed concurrently with such application. In accordance with state law, neither the granting of an incentive, nor the granting of a density bonus, shall be interpreted, in and of itself, to require a general plan amendment, zoning change,

or other discretionary approval or the waiver of the provisions of a county ordinance unrelated to development standards.

C. An applicant's request for any density bonuses, incentives, parking reductions, or waivers permitted by state density bonus law shall include the required fee and the following minimum information:

1. For a requested density bonus:
  - a. Summary table showing the maximum number of dwelling units permitted by the zoning and general plan excluding any density bonus units, proposed target units by income level, proposed bonus percentage, number of density bonus units proposed, total number of dwelling units proposed on the site, and resulting density in units per acre.
  - b. Subparagraph of Government Code Section 65915(b)(1) under which the housing development qualifies for a density bonus and reasonable documentation demonstrating that the housing development is eligible for a bonus under that subparagraph.
  - c. Where the housing development is seeking an additional bonus, the subparagraph of Government Code Section 65915(v)(1) under which the housing development qualifies for an additional density bonus and reasonable documentation demonstrating that the housing development is eligible for the additional bonus under that subparagraph.
  - d. A tentative map or preliminary site plan, drawn to scale, showing the number and location of all proposed units, designating the location of proposed target units and density bonus units.
  - e. The zoning and general plan designations and assessor's parcel number(s) of the housing development site.
  - f. A description of all dwelling units existing on the site in the five-year period preceding the date of submittal of the application and identification of any units rented in the five-year period; subject to any form of rent control through a public entity's valid exercise of its police power; or subject to a recorded covenant ordinance, or law restricting rents to levels affordable to households of lower or very low income.
  - g. If dwelling units on the site are currently rented, income and household size of all residents of currently occupied units, if known. If any dwelling units on the site were rented in the five-year period but are not currently rented, the income and household size of residents occupying the dwelling units when the site contained the maximum number of dwelling units, if known.

- h. The phasing of the construction of the target units in relation to the nonrestricted units in the housing development.
  - i. A marketing plan for the target units, as well as an explanation of the methods to be used to verify tenant and/or buyer incomes and to maintain affordability of the target units. The density bonus housing plan shall specify a financing mechanism for ongoing administration and monitoring of the target units.
  - j. If a density bonus is requested for a land donation, the location of the land to be dedicated, proof of site control, and reasonable documentation that each of the requirements included in Government Code Section 65915 (g) can be met.
- 2. Requested incentives or concessions as defined in state density bonus law. The number of incentives that may be requested shall be based upon the number the applicant is entitled to under state density bonus law. The application shall include the following minimum information, shown on a site plan (if appropriate):
  - a. Explanation of the number of incentives the housing development is entitled to.
  - b. The county's usual regulation and each requested regulatory incentive or concession.
  - c. Except where mixed-use zoning is proposed as a concession or incentive, reasonable documentation to show that any requested incentive will result in identifiable and actual cost reductions to provide for affordable housing costs or rents.
  - d. If approval of mixed-use zoning is proposed, reasonable documentation that nonresidential land uses will reduce the costs of the housing development, that the nonresidential land uses are compatible with the housing development and the existing or planned development in the area where the proposed housing development will be located, and that mixed-use zoning will provide for affordable housing costs and rents.
- 3. Requested waivers. For each waiver requested, the applicant shall show on a site plan and in a table, the county's required development standard and the requested development standard.
- 4. Parking reductions. The application shall include a table showing parking required by the zoning regulations, parking proposed under Government Code Section 65915(p), and reasonable documentation that the project is eligible for the requested parking reduction.

5. Density bonus or incentive for a childcare facility in a housing development. The application shall include reasonable documentation that all of the requirements included in Government Code Section 65915(h) can be met.
6. Density bonus or incentive for a condominium conversion. The application shall include reasonable documentation that all of the requirements included in Government Code Section 65915.5 can be met.
7. Commercial density bonus. Evidence that the project qualifies for a commercial density bonus under the provisions of Government Code Section 65915.7, including but not limited to inclusion of a partnered housing agreement.

D. Density bonus calculations.

1. In determining the total number of units to be granted, each component of any density calculation, including base density and bonus density, resulting in fractional units shall be separately rounded up to the next whole number. When calculating the number of target units needed to qualify for a given density bonus, any fractions of affordable target units shall be rounded up to the next whole number.
2. Except where a housing development is eligible for an additional bonus pursuant to Government Code Section 65915(v), each housing development is entitled to only one density bonus. If a housing development qualifies for a density bonus under more than one category, the applicant shall identify the category under which the density bonus is requested to be granted.
3. In determining the number of target units required to qualify a housing development for a density bonus pursuant to state density bonus law, units added by a density bonus are not included in the calculations. Any on-site units that satisfy the county's inclusionary housing requirements in this Chapter 18.107 and are required to be constructed concurrently with the housing development may qualify the housing development for a density bonus if those units meet the requirements of state density bonus law. Payment of fees or in lieu of providing target units under this Chapter 18.107 does not qualify a housing development for a density bonus.
4. The applicant may elect to accept a lesser percentage of density bonus than the housing development is entitled to, or no density bonus, but no reduction will be permitted in the percentages of target units required by state density bonus law. Regardless of the number of target units, no housing development shall be entitled to a density bonus greater than what is authorized under state density bonus law.
5. Nothing in this chapter requires the provision of direct financial incentives from the county for the housing development, including, but not limited to, the provision of financial subsidies, publicly owned land, fee waivers, or

waiver of dedication requirements. The county, at its sole discretion, may choose to provide such direct financial incentives.

E. Development standards.

1. Target units shall be comparable in exterior appearance and overall quality of construction to market rate units in the same housing development. Interior finishes and amenities may differ from those provided in the market rate units, but neither the workmanship nor the products may be of substandard or inferior quality as determined by the county.
2. To comply with fair housing laws, the target units shall contain the same proportional mix of bedroom sizes as the market-rate units. In mixed-income buildings, the occupants of the target units shall have the same access to the common entrances and to the common areas, parking, and amenities of the project as the occupants of the market-rate housing units, and the target units shall be located throughout the building and not isolated on one floor or to an area on a specific floor.

**18.107.180 - State incentives for affordable housing—Review procedures and affordable housing agreements.**

All requests for density bonuses, incentives, parking reductions, and waivers shall be considered and acted upon by the approval body with authority to approve the residential project, with right of appeal to the board of supervisors, if applicable.

- A. To ensure that an application conforms with the provisions of state density bonus law, the staff report presented to the decision-making body shall state whether the application conforms to the requirements of state density bonus law, as applicable:
1. A finding that the residential project is eligible for the density bonus and any incentives, parking reductions or waivers requested, and includes any affordable housing required to replace units rented or formerly rented to very low- and low-income households as required by California Government Code Sections 65915(c)(3) and 66300.5 *et seq.*
  2. A finding that if an incentive is requested, reasonable documentation has been presented showing that any requested incentive will result in identifiable and actual cost reductions to provide for affordable housing or costs or rents; except that, if a mixed-use development is requested, the application must instead meet all of the requirements of Government Code Section 65915(k)(2).
  3. If the density bonus is based all or in part on donation of land, a finding that all the requirements included in Government Code Section 65915(g) have been met.

4. If the density bonus or incentive is based all or in part on the inclusion of a childcare facility or condominium conversion, a finding that all the requirements included in Government Code Section 65915(h) or 65915.5, as applicable, have been met.
  5. If a parking reduction is requested, a finding that the housing development is eligible for any requested parking reductions under Government Code Section 65915(p).
  6. If a waiver is requested, a finding that the development standards for which the waiver is requested would have the effect of physically precluding the construction of the residential project with the density bonus and incentives permitted.
  7. If a commercial development bonus is requested, a finding that the development is eligible for the bonus under Government Code Section 65915.7.
- B. If the housing development is eligible for the incentives requested, the decision-making body may deny an application for an incentive only if it makes one of the following written findings, supported by substantial evidence:
1. The incentive does not result in identifiable and actual cost reductions, consistent with Government Code Section 65915(k), to provide for affordable sales prices or affordable rents; or
  2. The incentive would have a specific, adverse impact upon public health or safety or the physical environment or on real property listed in the California Register of Historic Resources, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the residential project unaffordable to low and moderate income households. For the purpose of this subsection, "specific adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, written public health or safety standards, policies, or conditions as they existed on the date that the application for the residential project was deemed complete; or
  3. The incentive is contrary to state or federal law.
- C. If the housing development is eligible for the waivers requested, the decision-making body may deny a request for a waiver only if it makes one of the following written findings, supported by substantial evidence:
1. The waiver would have a specific, adverse impact upon public health or safety or the physical environment, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the residential project unaffordable to low and moderate income households. For the purpose of this subsection, "specific adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based

on objective, identified, written public health or safety standards, policies, or conditions as they existed on the date that the application for the residential project was deemed complete; or

2. The waiver would have an adverse impact on real property listed in the California Register of Historic Resources; or
  3. The waiver is contrary to state or federal law.
- D. If the housing development is eligible for a child care bonus, the decision-making body may deny an application for a density bonus or incentive that is based on the provision of child care only if it makes a written finding, based on substantial evidence, that the county already has adequate child care facilities.
- E. If any density bonus, incentive, parking reduction, or waiver is approved pursuant to state density bonus law, the applicant shall enter into an affordable housing agreement with the county, in a form acceptable to the planning director and county counsel, to be executed by the county administrator or designee, to ensure compliance with state density bonus law. The affordable housing agreement shall be a legally binding agreement between the applicant and the county to ensure that the requirements of this chapter are satisfied and may be combined with the affordable housing agreement required in Section [18.107.130](#). The executed affordable housing agreement shall be recorded against the residential project prior to final or parcel map approval, or, where a map is not being processed, prior to issuance of building permits for the residential project. The affordable housing agreement shall be binding on all future owners and successors in interest.
- F. For rental projects, the agreement shall require the continued affordability of all rental units that qualified the applicant for the receipt of the density bonus, incentive, waiver, or parking reduction for a minimum of fifty-five (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; shall identify the type, size, and location of each target unit; shall specify the eligible occupants; shall specify phasing of the target units in relation to the market-rate units; and shall contain other relevant provisions approved by county counsel. Rents for the lower income density bonus units shall be set at an affordable rent as defined in state density bonus law.
- G. For for-sale projects, the affordable housing agreement shall require that the initial purchasers of those for-sale units that qualified the applicant for the receipt of the density bonus, incentive, waiver, or parking reduction are persons and families of lower or moderate income, as applicable, or if any for-sale unit is not purchased by an income-qualified household within one-hundred eighty (180) days after the issuance of the certificate of occupancy, then the unit(s) must be sold pursuant to a contract that satisfies the requirements of Revenue and Taxation Code Section 402.1(a)(10) to a qualified non-profit housing corporation as defined in state density bonus law. The units shall be offered at an affordable housing cost, as that cost is defined in Health and Safety Code Section 50052.5; and the agreement

shall contain other relevant provisions approved by county counsel. The affordable housing agreement shall require the continued affordability of the for-sale units for forty-five (45) years.

- H. Where a density bonus, waiver, or parking reduction is provided for a market-rate senior housing development with no target units, the applicant shall enter into a restrictive covenant with the county, running with the land, in a form approved by county counsel, to be executed by the county administrator or designee, to require the housing development to be operated as "housing for older persons" consistent with state and federal fair housing laws.
- I. Unless otherwise permitted pursuant to the terms of a recorded affordable housing agreement, all required target units shall be constructed prior to or concurrently with the construction of market rate units. No temporary or permanent certificate of occupancy for any new market rate unit in a residential project shall be issued until permanent certificates of occupancy have been issued for the required target units. Release of utilities shall not be authorized for any residential project until notification is received from the planning director that all requirements of this chapter have been met.



### **18.107.230 - General—Definitions.**

Unless the context clearly requires otherwise, the definitions in this section shall govern the provisions of this chapter.

"Addition" means the addition of gross square feet to an existing structure.

"Affordable rent" means monthly rent, including utilities and all fees for housing services, that does not exceed:

1. For very low income households: fifty percent of the median income for the county multiplied by thirty percent and divided by twelve.
2. For low income households: sixty percent of the median income for the county, multiplied by thirty percent and divided by twelve.
3. For moderate income households: one hundred ten percent of the median income for the county, multiplied by thirty percent and divided by twelve.

Affordable rent shall be based on presumed occupancy levels of one person in a studio dwelling unit, two persons in a one bedroom dwelling unit, three persons in a two bedroom dwelling unit, and one additional person for each additional bedroom thereafter.

"Affordable sales price" means the maximum purchase price that will be affordable to the specified household at the specified income level. The purchase price shall be considered affordable only if it is based on a reasonable down payment, and monthly housing payments (including interest, principal, mortgage insurance, property taxes, homeowners insurance, homeowners association dues, property maintenance and repairs, and a reasonable allowance for utilities), all as determined by the county, that are equal to or less than:

1. For very low income households: fifty percent of the median income for the county multiplied by thirty percent and divided by twelve.
2. For low income households: seventy percent of the median income for the county, multiplied by thirty percent and divided by twelve.
3. For moderate income households: one hundred ten percent of the median income for the county, multiplied by thirty-five percent and divided by twelve.

Affordable sales price shall be based on presumed occupancy levels of one person in a studio dwelling unit, two persons in a one bedroom dwelling unit, three persons in a two bedroom dwelling unit, and one additional person for each additional bedroom thereafter.

"Affordable units" means those deed-restricted dwelling units which are required to be offered for sale at an affordable sales price to specified households pursuant to Section [18.107.080](#) or which the applicant proposes to offer for rent at an affordable rent pursuant to

Section [18.107.110](#) or which the applicant constructs pursuant to an equivalency proposal approved pursuant to Section [18.107.100](#).

"Annual household income" means the combined gross income for all adult persons living in a dwelling unit as calculated for the purpose of the Section 8 program under the United States Housing Act of 1937, as amended, or its successor.

"Density bonus" means a density increase over the otherwise maximum allowable residential density for a residential project.

"Density bonus units" means those dwelling units allowed pursuant to the provisions of this chapter which exceed the maximum residential density for a residential project.

"Development standard" is as defined in state density bonus law.

"Discretionary permit" means any permit issued pursuant to [Title 17](#) or [Title 18](#) of this code which requires the exercise of judgment or deliberation from the decision-making body, including but not limited to, use permits, variances, site plan approval, general and specific plan amendments, zoning amendments, and the approval of tentative, final or parcel maps.

"Floor area" for a residential project is that area included within the surrounding walls of a dwelling unit as calculated by the building division in accordance with its standard practice. This area does not include garages, carports or common areas.

"Gross square feet" is the area included within the surrounding walls of a structure as calculated by the building division in accordance with its standard practice. This area does not include garages or carports. The gross square footage of any tank or wine crush pad or similar non-walled wine-related structure shall be included in the gross square feet of a nonresidential development.

"Housing board" means any affordable housing fund board established pursuant to Section [18.107.020](#) as advisory to the board of supervisors.

"Housing director" means the county executive officer or the designee of such person.

"Housing fund" means the affordable housing fund for the county established pursuant to Section [18.107.020](#) of this chapter.

"Low income households" are those households whose income does not exceed the low income limits applicable to Napa County as published annually pursuant to Title 25 of the California Code of Regulations, Section 6932 (or its successor provision) by the California Department of Housing and Community Development.

"Market rate units" means dwelling units in a residential project which are not affordable units or target units.

"Maximum allowable residential density" is as defined in state density bonus law.

"Median income" means the median income, adjusted for family size, applicable to Napa County as published annually pursuant to Title 25 of the California Code of Regulations, Section 6932 (or its successor provision) by the California Department of Housing and Community Development.

"Moderate income households" are those households whose income does not exceed the moderate income limits applicable to Napa County as published annually pursuant to Title 25 of the California Code of Regulations, Section 6932 (or its successor provision) by the California Department of Housing and Community Development.

"Nonresidential development" means any development in the county for which a discretionary permit or building permit is required, other than those developments involving solely residential projects, that includes an addition, the new construction of gross square feet of nonresidential space, the conversion of a residential use to a nonresidential use, or the conversion of one nonresidential use to another nonresidential use.

"Residential project" means any development for which a discretionary permit or building permit is required that includes the creation of one or more additional dwelling units, an addition to a dwelling unit, conversion of nonresidential uses to dwelling units, or a condominium conversion.

"Residential ownership project" means any residential project that includes the creation of one or more residential dwelling units that may be sold individually. A residential ownership project also includes the conversion of apartments to condominiums.

"Residential rental project" means any residential project that creates residential dwelling units that cannot be sold individually.

"Senior citizen residential project" means a senior citizen housing development with at least thirty-five dwelling units as defined in Civil Code Section 51.3, or a mobilehome park that limits residency based on age requirements for older persons pursuant to Civil Code Sections 798.76 or 799.5. It may include a shared housing building development as defined in state density bonus law.

"Target unit" means a deed-restricted dwelling unit within a residential project which is reserved for sale or rent, at an affordable rent or affordable sales price, to very low, low, or moderate income households, and which qualifies the residential project for a state density bonus and other incentives under state density bonus law.

"Very low income households" are those households whose income does not exceed the very low income limits applicable to Napa County as published annually pursuant to Title 25 of the California Code of Regulations, Section 6932 (or its successor provision) by the California Department of Housing and Community Development.