



STAFF REPORT TO THE ANTIOCH PLANNING COMMISSION

DATE: November 20, 2024

SUBMITTED BY: Zoe Merideth, Planning Manager

APPROVED BY: Kevin Scudero, Acting Community Development Director

SUBJECT: State Density Bonus Law Ordinance Update (LA2024-0005)

STAFF RECOMMENDATION

Staff recommends that the Planning Commission recommend that the Antioch City Council adopt an ordinance repealing and replacing Title 9, Chapter 5, Article 35 of the Antioch Municipal Code (AMC), Density Bonus Program.

SUMMARY

Title 9, Chapter 5, Article 35 of the AMC, Density Bonus Program, regulates and implements the State of California Density Bonus Law (SDBL). The current Antioch regulations closely mirror the SDBL. Specifically, the code allows for a sliding scale of density bonuses and the granting of one or more concessions based on the amount and type of affordable housing that is provided, an unlimited number of waivers or reductions of local regulations, and parking reductions based on unit size.

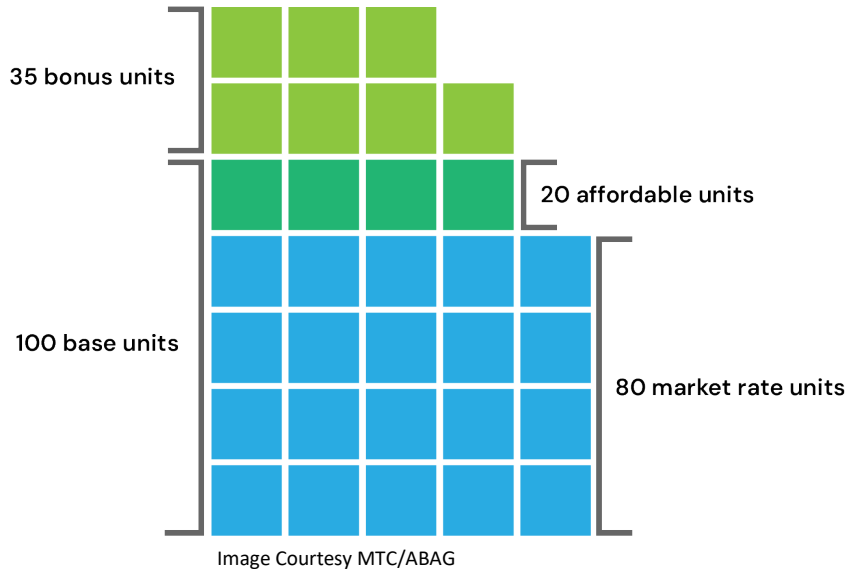
Staff is recommending the zoning text amendments to the AMC to ensure compliance with State law, outline application and approval procedures, and include development standards for affordable units constructed under the ordinance.

BACKGROUND

State Density Bonus Law (California Government Code Sections 65915–65918)

The SDBL was adopted in 1976 to address California's affordable housing needs. The SDBL required local agencies to allow increased density, reduced standards, and development incentives based on the number and type of affordable housing units proposed. Over time, the law has been expanded to include housing for households at a wider range of income levels and with specialized needs (e.g., seniors, students, foster youth, formerly homeless persons, or disabled veterans).

The SDBL applies to housing projects, including mixed-use developments, new subdivisions, or common-interest developments. Density bonuses and associated incentives and concessions are intended to offset the financial burden of constructing affordable units. A density bonus allows a developer to build beyond the maximum density allowed in a zoning district. For example, a project that proposes 100 base units (total units), 20 of which are affordable at low-income, is allowed to build 35 bonus units if it meets all eligibility requirements.



The density bonus and associated concessions are based on the amount and type of affordable units provided and include the following:

- Density Bonus: An increase above the maximum allowed density permitted in the General Plan Land Use Element or Zoning Code. The amount of the bonus is set on a sliding scale based on the percentage of affordable units at each income level. Attachment D includes density bonus charts taken from SDBL.
 - For very-low income units, setting aside 5% of the allowed units results in a 20% density bonus; and setting aside 15% of the allowed units results in a 50% bonus.
 - For low-income units, the developer must set aside a higher number of units, starting with 10% of the allowed units for a 20% density bonus; or up to 24% of the allowed units for a 50% bonus.
 - For moderate-income units, 10% of the allowed units results in a 5% density bonus; and if up to 44% of the allowed units are reserved for moderate-income households, a bonus of up to 50% must be awarded.
 - Through other provisions of SDBL, up to a 100% bonus can be awarded based on the mix of income levels provided in the project and for 100% affordable projects located within one-half mile of a major transit stop or in a very low vehicle travel area.

- Incentives/Concessions: Modifications to City regulatory or development standards that result in actual and identifiable cost reductions to provide for affordable housing costs or rents. The number of required incentives is based on the percentage of affordable units provided in the qualifying project. For example, developers may ask for increased height above that allowed by the zoning regulations.
- Reductions/Waivers: Modification to City development standards that would physically prevent the construction of a housing development at the density permitted with a bonus and any concessions, except where the waiver would cause a public health or safety concern, harm historical property, or would be contrary to the law. There is no limit to the number of reductions/waivers that may be requested. For example, applicants may request decreased setbacks and/or increased floor area ratio and/or waiver of open space requirements.
- Reduced Parking Ratios: Parking ratios are defined based on unit size:
 - Zero to one bedroom: one onsite parking space per unit
 - Two to three bedrooms: one and one-half onsite parking spaces per unit
 - Four or more bedrooms: two and one-half parking spaces per unit.

Like many jurisdictions, the reduced parking ratios for Antioch are lower than the standard AMC parking requirements.

Current Antioch Density Bonus Program

Antioch's Density Bonus Program largely replicates and codifies the SDBL requirements. The ordinance was last amended on August 25, 2020 via Ordinance No. 2190-C-S. This amendment aimed to simplify the text of Antioch's Density Bonus Program to reference state law to accommodate the many changes to SDBL in recent years. Antioch's previous ordinance included a density bonus chart, which no longer mirrored SDBL, for example. A list of changes since 2019 is included as Attachment C.

Even with this amendment in 2020, AB 1287, which went into effect on January 1, 2024, limited the amount of information local governments may require to determine whether concessions or waivers of development standards are in fact needed to achieve project cost savings. The City's current ordinance references providing information that a developer no longer needs to provide under AB 1287. Additionally, the amendment did not provide specific development standards for the affordable units built under SDBL. As described below, the proposed ordinance incorporates specific development standards that will add inclusivity to SDBL projects. The current ordinance is included as Attachment B.

DISCUSSION

Staff proposes to repeal and replace the existing density bonus regulations with the ordinance attached to this staff report (Attachment A). The new regulations would adopt the SDBL by reference and identify when the regulations apply. The draft ordinance also

contains requirements related to physical constraints and parking reductions, outlines application requirements, and specifies the approval process for projects. The draft ordinance also acknowledges future State law amendments may occur.

In future years, as the legislature continues to amend and/or refine SDBL, the AMC would remain consistent with State law; zoning text amendments for density bonuses would not be necessary. In addition, by referencing State law, City staff will find it easier to process applications and communicate relevant regulations to applicants, the public, and appointed/elected officials.

The proposed ordinance, as well as the current ordinance, both require affordable units built under SDBL to be integrated into the market rate units throughout the project and built concurrently with or prior to the construction of any market rate units. The intent of this provision is to ensure affordable units are integrated into the community and not placed into a separate building or section of the development away from market rate units.

Staff is also proposing to close a loophole in the current ordinance by adding in objective development standards for affordable units built under SDBL. Currently, an affordable unit built under SDBL within Antioch does not need to be the same size or appearance as market rate homes in the same development. A developer could build only studio and one-bedroom affordable units while providing larger multi-bedroom market rate units. State Housing Element Law requires cities and counties to take deliberate action to identify segregated living patterns and replace them with integrated and inclusive communities. Adding in development standards for affordable units built under SDBL, the proposed ordinance would create opportunities for more diverse and integrated communities where the same range of unit types is available to everyone, regardless of income, and further implement Antioch's Sixth Cycle Housing Element.

The proposed ordinance would require the affordable units to be substantially the same in design, size, distribution, and access as market rate units.

- The proposed ordinance requires the design of affordable units within the development to be “comparable in exterior appearance and quality of construction to the market-rate units in the same development.”
- The proposed ordinance would also require the size of the affordable units to “be no less than ninety (90%) percent of the median square footage of the market rate units with the same number of bedrooms” and, if the project contains a subdivision with separate parcels, “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.”
- The proposed ordinance requires the affordable units to be distributed and integrated into the market rate units. The proposed ordinance includes the ability for City Council to waive the distribution requirement and allow the affordable units to be located within one building to obtain tax credit financing. For large multifamily

developments, it is common for the affordable units to be in one building in order to obtain tax credits or the building be separately sold to an affordable housing developer to operate. This added clause would ensure affordable units may be financed to further production of affordable housing.

- Finally, the proposed ordinance requires that residents of affordable units to be entitled to the same amenities and facilities as the residents of the market rate units.

With the proposed additions to the ordinance, SDBL projects will have greater parity for all residents and further the goals of the Sixth Cycle Housing Element.

ENVIRONMENTAL REVIEW

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.

ATTACHMENTS

- A. Resolution recommending the City Council adopt Zoning Text Amendments
Exhibit A: Draft Ordinance
- B. Current Ordinance
- C. Bills Related to State Density Bonus Law since 2019
- D. Density Bonus Charts

ATTACHMENT "A"

PLANNING COMMISSION RESOLUTION NO. 2024-XX

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;

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

November 20, 2024

Page 2

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.

* * * * *

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:

NOES:

ABSENT:

ABSTAIN:

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

ATTACHMENT "B"

ARTICLE 35: DENSITY BONUS PROGRAM

§ 9-5.3501 PURPOSE.

The Density Bonus Program is intended to implement the State Density Bonus Law in compliance with the requirements of Cal. Gov't Code § 65915 and the adopted housing element of the Antioch General Plan by providing incentives which will encourage developers to construct affordable housing to benefit lower income households.

(Ord. 2190-C-S, passed 8-25-20)

§ 9-5.3502 DENSITY BONUS PROVISIONS.

(A) In addition to any other review required for a proposed housing development, applications for a density bonus shall be filed with the Community Development Director. The application for a density bonus shall be filed concurrently with an application for a development plan review, administrative approval, or other application necessary for the housing development. In addition to and in conjunction with the submittal requirements for the housing development application, the applicant shall submit the following items:

- (1) The application form and submittal requirements approved by the Community Development Director.
- (2) The application fee, established by resolution of the City Council, at the time the application is filed.
- (3) Reasonable documentation to establish eligibility for a requested density bonus, incentives or concessions, waivers or reductions of development standards, and parking ratios, to the satisfaction of the Community Development Director.
 - (a) A request for concessions or incentives shall be accompanied by documentation demonstrating how the incentive or concession would result in identifiable and actual cost reductions necessary to meet affordability levels.
 - (b) A request for a waiver or reduction of development standards shall be accompanied by documentation demonstrating how the development standards physically preclude the construction of the qualified affordable housing development.
 - (c) A request for parking ratios pursuant to Cal. Gov't Code §§ 65915(p)(2) and (3) shall be accompanied by documentation showing the proposal meets the criteria in those sections.

(B) City staff shall process the application for a density bonus in the same manner as, and concurrently with, the application for a development plan review or administrative approval that is required by this Code.

(C) When notifying an applicant that city staff has deemed the application complete, city staff shall include the information required by Cal. Gov't Code § 65915.

(1) Any determination required by Cal. Gov't Code § 65915 shall be based on the development project at the time the application is deemed complete. The city shall adjust the amount of density bonus and parking ratios awarded pursuant to Cal. Gov't Code § 65915 based on any changes to the project during the course of development.

(D) The city shall grant the applicant the number of incentives and concessions required by Cal. Gov't Code § 65915. The city shall grant the specific concession(s) or incentive(s) requested by the applicant, unless it makes any of the relevant written findings, based upon substantial evidence, stated in Cal. Gov't Code § 65915(d).

(E) The city shall approve a waiver or reduction of a development standard requested by the applicant, unless it makes written findings based upon the criteria in Cal. Gov't Code § 65915(e).

(F) The applicant shall enter into an agreement with the city to ensure the continued affordability of all affordable units or the continued reservation of such units for qualifying senior citizens. Prior to receiving a building permit for any project that receives a density bonus or any incentive, concession, waiver, or reduction of development standards pursuant to this section, such agreement shall be recorded as a covenant against the property.

(G) For any development project that is granted a density bonus or other benefit pursuant to this section, the affordable units that qualify the project as eligible for a density bonus, must be constructed concurrently with or prior to the construction of any market rate units. In addition, the affordable units must be integrated with the market rate units so that there is a mix of affordable and market rate units, if any, in each building of the development project.

(H) The provisions of this subdivision shall be interpreted to fulfill the requirements of Cal. Gov't Code § 65915. Any changes to that Cal. Gov't Code § 65915 shall be deemed to supersede and govern any conflicting provisions contained herein.

(Ord. 2190-C-S, passed 8-25-20)

ATTACHMENT "C"

Bills Related to State Density Bonus Law since 2019

2019

- SB 1227 requires a 35% density bonus for housing developments that include at least 20% of its units for low-income college students.
- AB 2797 requires density bonuses in the Coastal Zone to be consistent with the California Coastal Act.
- AB 2372 allows developers to request a floor-area-ratio bonus rather than a traditional density bonus for projects that meet specific requirements.
- AB 2753 requires local governments to notify applicants of required information for a project to be determined complete and provide information on the project's eligibility for density bonus and reduced parking ratios.

2020

- AB 1763 provides incentives for 100% affordable housing projects, such as an 80% density bonus and an additional concession entitlement. For projects located within ½ mile of a major transit stop, AB 1763 eliminates all local government limits on density and parking and allows a height limit of up to three stories or 33 feet.

2021

- AB 2345 provides for up to 50% density bonus for mixed-income developments, reduces parking requirements for many projects qualifying for a density bonus, lowers some thresholds for obtaining concessions, and adopts density bonus reporting requirements.

2022

- AB 571 prohibits local governments from charging affordable housing impact fees, including inclusionary zoning fees and in-lieu fees, against affordable units in density bonus housing developments.
- AB 634 allows local government to adopt an ordinance requiring an affordability period of more than 55 years in density bonus housing projects, except for developments financed with low-income housing tax credits.
- SB 290 provides additional incentives to student housing development, reconciles text regarding public health and safety between the Housing Accountability Act and Density Bonus Law, defines 'total units' in a density bonus project, reduces parking requirements for moderate-income units, and clarifies that the Density Bonus Law applies to both rental and for-sale housing developments.
- SB 728 allows developers in for-sale density bonus housing developments to sell affordable units to nonprofit housing corporations instead of selling the units directly to a low- or moderate-income homebuyer.

2023

- AB 682 establishes “shared housing” as a new category of housing eligible for a density bonus and other associated benefits and establishes a method of determining base densities.
- AB 1551 readopts legislation that sunsetted at the end of 2021 requiring that cities and counties provide a “development bonus” to commercial developers if they meet certain requirements.
- AB 2334 provides special benefits to housing developments based on vehicle miles travelled.

2024

- AB 440 amends provisions related to the calculation of maximum allowable residential density under the State Density Bonus Law.
- AB 1287 requires jurisdictions to grant an additional density bonus calculated as specified by the bill, additional concessions for projects that meet the bill's requirements, and amend the Density Bonus Law to supersede the California Coastal Act
- SB 713 affirms that the Density Bonus Law supersedes an ordinance, regulation or other local law enacted by a voter initiative that conflicts with the Density Bonus Law.
- AB 323 requires that affordable ownership inclusionary units in a Density Bonus project are first offered to future low-income homeowners, only if there are no takers can a nonprofit buy it to operate as a rental unit for a low-income renter.

Going into Effect January 1, 2025

- AB 2694 extends density bonus law to residential care facilities for the elderly.
- SB 3116 provides additional density bonus law benefits for student housing.

ATTACHMENT "D"

Base Density Bonus Charts from State Density Bonus Law (Other provisions allow for additional bonuses or stacking of bonuses)

<i>Percentage Low-Income Units</i>	<i>Percentage Density Bonus</i>
10	20
11	21.5
12	23
13	24.5
14	26
15	27.5
16	29
17	30.5
18	32
19	33.5
20	35
21	38.75
22	42.5
23	46.25
24	50

Percentage Very Low-Income Units	Percentage Density Bonus
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35
12	38.75
13	42.5
14	46.25
15	50

Percentage Moderate-Income Units	Percentage Density Bonus
10	5
11	6
12	7
13	8
14	9
15	10
16	11
17	12
18	13
19	14
20	15
21	16
22	17
23	18
24	19
25	20
26	21
27	22
28	23
29	24
30	25
31	26
32	27
33	28
34	29
35	30
36	31
37	32
38	33
39	34
40	35
41	38.75
42	42.5
43	46.25
44	50