



City of Burbank
Planning Division
DENSITY BONUS
Implementing Regulations

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The State of California has adopted density bonus laws which allow developers of residential units to receive a density bonus when a portion of the units are rented or sold at affordable rates. The City of Burbank has codified these laws and these guidelines will assist potential developers who wish to use the density bonus program. Over time, as state law changes, these regulations will be updated to reflect the new requirements.

APPLICABILITY

A developer must request a density bonus as part of their application to construct a residential project.

REQUIREMENTS

A developer may receive a density bonus from 5% up to 35% based on the percentage of affordable units provided with the project. The following is a summary of the requirements (attached table lists out each possible density bonus):

If a developer provides 10% **low** income units, they will receive a 20% density bonus. For every 1% increase in affordable units, the developer shall receive a 1.5% density bonus increase. Therefore, if the developer provides 20% **low** income units, they will receive a 35% density bonus.

If a developer provides 5% **very low** income units, they will receive a 20% density bonus. For every 1% increase in affordable units, the developer shall receive a 2.5% density bonus increase. Therefore, if the developer provides 11% **very low** income units, they will receive a 35% density bonus.

If a developer provides 10% **moderate** income units **for sale**, they will receive a 5% density bonus. For every 1% increase in affordable units, the developer shall receive a 1% density bonus increase. Therefore, if the developer provides 40% **moderate income** units **for sale**, they will receive a 35% density bonus.

The density bonus law also applies to senior housing projects and projects which include a child care facility. Please ask staff for applicable standards.

Developers may choose to use the affordable units required by the City's inclusionary housing ordinance to meet the minimum thresholds for the state density bonus law. However, in that case, the units must meet both requirements, or the more stringent of the two requirements.

Developers may not use moderate income units to meet low or very low income unit requirements. Very Low income households are defined as those earning 50% of the median family income (MFI) for LA County, Low income are those earning 80% MFI, and moderate

income are those earning 120% MFI. Income levels are adjusted for household size appropriate for the unit. These income definitions are based upon the housing cost definition within the California Health and Safety Code and are consistent with income thresholds used in Burbank's other housing programs.

The attached sheet lists the current median family income by household size and the maximum affordable rents and/or housing costs permitted for Very Low, Low, and Moderate Income units. These incomes, rents and housing cost figures are updated annually consistent with the published U.S. Department of Housing and Urban Development (HUD) income limits.

In calculating the overall number of required affordable units, any decimal fraction shall be rounded up to the nearest whole number. Any additional units granted as a density bonus will not be counted in determining the required number of affordable units. In calculating the bonus to be received, any decimal fraction shall be rounded up to the nearest whole number.

Example: Construction of 15 new units to be offered for rent
15 units x 15% = 3 low income units
15 units x 27.5% = 5 unit density bonus

Conclusion: A 15 unit project must provide a total of three low income units to receive a five unit bonus. Therefore, the project may be constructed with a total of 20 units, 17 of which may be offered for rent at market rates.

LAND DONATION ALTERNATIVE

Under certain circumstances, described in more detail in the ordinance, developers may be permitted to donate land in-lieu of constructing the units on site. The land must be at least one acre in size or of a sufficient size to permit development of at least 40 units. The land must also have the appropriate zoning designation and entitlements to construct the units.

CONCESSIONS FOR CONSTRUCTION

The City is permitted to grant concessions for density projects. It is important to note that all concessions given will be based on the applicant demonstrating that it is not financially feasible to build the project without the incentives.

The incentives (or concessions) are broken down into three tiers depending on their level of impact on residents of the project and/or the surrounding community. Concessions with an anticipated greater impact require a higher level of review and approval. The three tiers of approval are administrative (Community Development Director), Planning Board, and City Council as outlined below.

If a single project requests multiple concessions from different tiers, all requested concessions would be subject to the highest applicable level of review and approval. For example, if a proposed project requested two Tier 1 concessions and one Tier 2 concession, all concessions, including those from Tier 1, would be subject to Planning Board approval under Tier 2.

The number of concessions permitted is based on the amount and level of affordability constructed:

AFFORDABILITY TYPE	THRESHOLD OF AFFORDABILITY	NUMBER OF CONCESSIONS
Very Low Income	5%	1
	10%	2
	15%	3
Low Income	10%	1
	20%	2
	30%	3
Moderate Income (for sale condominium or planned development)	10%	1
	20%	2
	30%	3

Tier 1

(Administrative approval by the Community Development Director with appeal to Planning Board and City Council)

- Reduce common open space area by up to 30% and/or reduce private open space area by up to 30% per unit or eliminate private open space for 30% of units
 - 30% reduction of both common and private open space not allowed – must mix and match between the two to reach average equivalent
 - Does not allow for reduced minimum open space dimensions
- Increase lot coverage from 60% to 70% when greater than 300 feet from R-1 zoned property
- Increase building height up to the maximum height otherwise allowed in the zone when greater than 300 feet from R-1 zoned property
- Allow laundry/utility room on third floor when 150 to 300 feet from R-1 zoned property
- Reduce side yard setback for three story projects from 6 feet to 5 feet
- Density bonuses as permitted under State Law
- Tenant and/or purchaser screening and qualification for affordable units conducted by the City of Burbank at the City’s cost
- Marketing of for-sale affordable units conducted by the City of Burbank at the City’s cost

Tier 2

(Planning Board approval with appeal to City Council)

- Other increases in lot coverage not covered in Tier 1
- Reduce front, side or rear average setbacks and façade breaks (not minimum setbacks)
- Reduce 50% of amenities

Tier 3

(City Council approval)

- Any additional reductions or variations thereof not specifically covered in Tiers 1 and 2 (e.g. reduce open space greater than 30%, three stories of habitable space when less than 300 feet from R-1, etc.)
- Deviation from any other development standards not addressed in Tiers 1 and 2 (e.g. parking, landscaping, amenities, etc.)
- Density bonuses in excess of what is provided for under state law

- Development impact fee waivers on affordable units, and fee deferrals on market rate units until issuance of certificate of occupancy
- Any direct financial assistance, including that for purchasers of affordable units.

Findings which must be made in order to grant incentives:

Under state density bonus provisions, finding must be made in order to grant any of the allowed concessions. Before granting any of the above concessions, the Community Development Director, Planning Board, or City Council must make each of the following state mandated findings:

1. The concession or incentive is required in order to provide for affordable housing costs or for rents for the targeted units to be set as required.
2. The concession or incentive would not have a specific adverse impact upon 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 not feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low and moderate income households.
3. The applicant has shown that the waiver of modification of development standards is necessary to make the housing units economically feasible.

MODIFIED DEVELOPMENT STANDARDS

In addition to the concessions allowed, developers may request modified parking requirements as follows:

- Zero to one bedroom units – one onsite parking space
- Two to three bedroom units – two onsite parking spaces
- Four and more bedrooms – two and one-half parking spaces

These spaces are inclusive of handicapped and guest parking. All fractions of numbers shall be rounded up. The developer may also use tandem or uncovered parking to meet these parking requirements.

OTHER REQUIREMENTS

Listed below are various other requirements found in the ordinance:

- 1) Affordable units shall be constructed concurrently with market rate units or pursuant to a schedule included in the Density Bonus Housing Agreement.
- 2) Affordable units offered for rent to low income and very low income households shall be made available for rent at an affordable rent and shall remain restricted and affordable to the designated income group for a minimum period of 30 years. A longer period of time may be specified if required by any construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program applicable to the housing development. Affordable units will not meet the requirements for rental inclusionary units under the Burbank Municipal Code unless they remain restricted and affordable for 55 years.
- 3) Affordable units offered for sale to moderate income households in condominiums and planned developments shall be sold by the developer of the housing development at a price that does not exceed the affordable purchase price. At the time of the sale of an affordable

unit from the developer to the initial purchaser, the purchaser shall execute a promissory note secured by a subordinate deed of trust in favor of the City. The promissory note shall require payment, upon resale of the unit, the difference between the market rate price of the affordable unit at time of the purchaser's purchase of the affordable unit and the affordable purchase price, and a proportionate share of the appreciation. Upon a resale, the seller of the unit shall retain the market value at the time of sale of any capital improvements made by the seller, the down payment, and the seller's proportionate share of appreciation. The City's proportion of the share of appreciation shall be equal to the percentage by which the affordable purchase price was less than the fair market value of the affordable unit at the time of the initial sale. Affordable units that are also satisfying the City's inclusionary requirement shall be available for moderate income households in perpetuity for the life of the structure.

- 4) Affordable units shall be built on site, and shall be dispersed within the development. The number of bedrooms of the affordable units shall be equivalent to the bedroom mix of the non-affordable units of the development, except that the developer may include a higher proportion of affordable units with more bedrooms. The design and appearance of the affordable units shall be compatible with the design of the overall housing development. Housing developments shall comply with all applicable development standards, except those which may be modified as provided by the ordinance.

APPLICATION PROCEDURES

Request for a density bonus and any concessions or modifications shall be submitted with the Development Review application for the housing development and will be processed concurrently with all other applications required. The request shall be submitted on an application form and shall include at least the following information:

- 1) Site plan showing total number of units (including density bonus units) and number and location of affordable units.
- 2) Level of affordability of affordable units and proposals for ensuring affordability.
- 3) Description of any requested incentives, concessions, waivers or modifications of development standards, or modified parking standards. For all incentives and concessions, the application shall include evidence that the requested incentives and concessions result in identifiable, financially sufficient, and actual cost reductions. For waivers or modifications of development standards, the application shall show that the waiver or modification is necessary to make the development with the affordable units economically feasible and that the development standards will have the effect of precluding the construction of a housing development meeting the criteria of Code at the densities or with the concessions or incentives permitted by Code.
- 4) If a density bonus or concession is requested for a land donation, the application shall show the location of the land to be dedicated and provide evidence that each of the findings as specified in the ordinance can be made.
- 5) If a density bonus or concession is requested for a child care facility, the application shall show the location and square footage of the child care facilities and provide evidence that each of the findings required by the ordinance can be made.

HOUSING AGREEMENT REQUIREMENTS

If approved, the developer agrees to enter into a Density Bonus Housing Agreement with the City. The Housing Agreement shall contain the following information:

- i. The total number of units approved for the housing development, the number, location, and level of affordability of affordable units, and the number of density bonus units.
- ii. Standards for determining affordable rent or affordable ownership cost for the affordable units.
- iii. The location, unit size in square feet, and number of bedrooms of affordable units.
- iv. Provisions to ensure affordability in accordance with Code.
- v. A schedule for completion and occupancy of affordable units in relation to construction of market rate units.
- vi. A description of any incentives, concessions, waivers, or reductions being provided by the City.
- vii. A description of remedies for breach of the agreement by either party. The City may identify tenants or qualified purchasers as third party beneficiaries under the agreement.
- viii. Procedures for qualifying tenants and prospective purchasers of affordable units.
- ix. Other provisions to ensure implementation and compliance with Code.
- x. Where applicable, affordable units shall be owner-occupied by eligible moderate income households.
- xi. Where applicable, the purchaser of each affordable unit shall execute an affordable housing agreement, inclusive of the promissory note and deed of trust approved by the City and to be recorded against the parcel including such provisions as the City may require to ensure continued compliance with Code.
- xii. In the case of rental housing developments, the Density Bonus Housing Agreement shall provide procedures for establishing affordable rent, filling vacancies, and maintaining affordable units for eligible tenants.
- xiii. Where applicable, provisions requiring verification of household incomes will be required as well as records to demonstrate compliance with the requirement.

CODE CHANGES

If State Law changes, Burbank's Municipal Code has a provision to automatically be amended if inconsistencies exist. These Implementing Regulations will also change as a result of State Law changes when necessary.

ATTACHMENTS

- Density bonus levels and target group thresholds.
- Current median family income by household size and the maximum affordable rents and/or housing costs permitted by Very Low, Low, and Moderate income units.

DENSITY BONUS LEVELS & TARGET GROUP THRESHOLDS

TYPE OF UNITS	LEVEL OF AFFORDABILITY/ THRESHOLD	DENSITY BONUS
Very Low	5% (minimum)	20%
	6%	22.5%
	7%	25%
	8%	27.5%
	9%	30%
	10%	32.5%
	11%	35% (maximum)
Low Income	10% (minimum)	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% (maximum)
Moderate Income (for sale condominium or planned development)	10% (minimum)	5%
	11%	6%
	12%	7%
	13%	8%
	14%	9%
	15%	10%
	16%	11%
	17%	12%
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31%	26%	
32%	27%	
33%	28%	
34%	29%	
35%	30%	
36%	31%	
37%	32%	
38%	33%	
39%	34%	
	40%	35% (maximum)
Senior Housing	35 units or more	20%
Child Care	No threshold	Proportionate amount of square footage

2007 AFFORDABLE RENTS AND INCOMES

State Income Limits for Los Angeles County (2007)

Income Level	1 person household	2 person household	3 person household	4 person household	5 person household	6 person household	7 person household	8 person household
Extremely Low	\$15,550	\$17,750	\$20,000	\$22,200	\$24,000	\$25,750	\$27,550	\$29,300
Very Low	\$25,900	\$29,600	\$33,300	\$37,000	\$39,950	\$42,900	\$45,900	\$48,850
Lower	\$41,450	\$47,350	\$53,300	\$59,200	\$63,950	\$68,650	\$73,400	\$78,150
Median	\$39,600	\$45,200	\$50,900	\$56,500	\$61,000	\$65,500	\$70,100	\$74,600
Moderate	\$47,500	\$54,200	\$61,000	\$67,800	\$73,200	\$78,600	\$84,100	\$89,500

Area Median Income: \$56,200

State Rent Limits for Los Angeles County (2007)

Household Income Level	0 bedroom	1 bedroom	2 bedroom	3 bedroom	4 bedroom	5 bedroom
Extremely Low	\$297.00	\$339.00	\$381.75	\$423.75	\$457.50	\$491.25
Very Low	\$495.00	\$565.00	\$636.25	\$706.25	\$762.50	\$818.75
Lower	\$594.00	\$678.00	\$763.50	\$847.50	\$915.00	\$982.50
Moderate	\$1,089.00	\$1,243.00	\$1,399.75	\$1,553.75	\$1,677.50	\$1,801.25

State Homeownership Limits for Los Angeles County (2007)

Household Income Level	0 bedroom	1 bedroom	2 bedroom	3 bedroom	4 bedroom	5 bedroom
Extremely Low Buyers	\$297.00	\$339.00	\$381.75	\$423.75	\$457.50	\$491.25
Very Low Buyers	\$495.00	\$565.00	\$636.25	\$706.25	\$762.50	\$818.75
Lower Buyers	\$693.00	\$791.00	\$890.75	\$988.75	\$1,067.50	\$1,146.25
Moderate Buyers	\$1,270.50	\$1,450.17	\$1,633.04	\$1,812.71	\$1,957.08	\$2,101.46

Monthly housing payments may not exceed these amounts

The rent and homeowner limits do not include the mandatory utility allowance. The utility allowance provides reasonable allowances for tenant-paid utilities. It consists of electricity, gas, water, trash, sewer, utility user tax and appliances.