

**ORDINANCE NO. \_\_\_\_\_**

An ordinance amending Sections 12.22, 12.24, 14.00 and 19.01 of the Los Angeles Municipal Code to implement a Density Bonus program, as required by State law.

**THE PEOPLE OF THE CITY OF LOS ANGELES  
DO ORDAIN AS FOLLOWS:**

Section 1. Subdivision 25 of Subsection A of Section 12.22 of the Los Angeles Municipal Code is hereby amended to read:

**25. Affordable Housing Incentives – Density Bonus**

**(a) Purpose.** The purpose of this subdivision is to establish procedures for implementing State Density Bonus requirements, as set forth in California Government Code Sections 65915-65918, and to increase the production of affordable housing, consistent with City policies.

**(b) Definitions.** Notwithstanding any provision of this Code to the contrary, the following definitions shall apply to this subdivision:

**Affordable Housing Incentives Guidelines** – the guidelines approved by the City Planning Commission under which Housing Development Projects for which a Density Bonus has been requested are evaluated for compliance with the requirements of this subdivision.

**Area Median Income (AMI)** – the median income in the Los Angeles-Long Beach Primary Metropolitan Statistical Area determined periodically by the Los Angeles Housing Department based on data provided by the United States Department of Housing and Urban Development or any successor agency, adjusted for household size.

**Density Bonus** – a density increase over the otherwise maximum allowable residential density under the applicable zoning ordinance and/or specific plan granted pursuant to this subdivision.

**Density Bonus Procedures** – procedures to implement the City's Density Bonus program developed by the Departments of Building and Safety, City Planning and Housing.

**Disabled Person** – a person who has a physical or mental impairment that limits one or more major life activities, anyone who is regarded as having such impairment or, anyone who has a record of such an impairment.

**Floor Area Ratio** – ratio of the total floor area of buildings on a lot to the total buildable area of the lot as defined in Section 12.03 of this Code.

**Housing Development Project** – the construction of five or more new residential dwelling units, the addition of five or more residential dwelling units to an existing building or buildings, or the remodeling of a building or buildings containing five or more residential dwelling units, excluding units permitted by a Density Bonus and including Restricted Affordable Units.

**Incentive** – a modification to a City development standard or requirement of Chapter I of this Code (zoning).

**Income, Very Low, Low or Moderate** – annual income of a household that does not exceed a specified percentage of the AMI as determined by the Los Angeles Housing Department.

**Residential Hotel** – any building containing six or more Guest Rooms or Efficiency Dwelling Units, intended or designed to be used, or which are used, rented, or hired out, to be occupied, or which are occupied, for sleeping purposes by guests, which is also the primary residence of those guests, but does not mean any building containing six or more Guest Rooms or Efficiency Dwelling Units, which is primarily used by transient guests who do not occupy that building as their primary residence.

**Residential Unit** – a dwelling unit or joint living and work quarters, as defined in Section 12.03 of this Code; a mobilehome, as defined in California Health and Safety Code Section 18008; a mobile home lot in a mobilehome park, as defined in California Health and Safety Code Section 18214; or a Guest Room or Efficiency Dwelling Unit in a Residential Hotel.

**Restricted Affordable Unit** – a residential unit for which rental or mortgage amounts are restricted so as to be affordable to and occupied by Very Low, Low or Moderate Income households, as determined by the Los Angeles Housing Department.

**Senior Citizens** – individuals, who are at least 62 years of age, except that for projects subject to this subdivision of at least 35 units, a threshold of 55 years of age may be used, provided all applicable City, State and federal regulations are met.

**Senior Citizen Housing Development** – a Housing Development Project for senior citizens that has at least 35 units.

**Specific Adverse Impact** – 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 the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.

**Transit Stop / Major Employment Center** – Any one of the following:

- a. A station stop for a fixed rail system that is currently in use or whose location is proposed and for which a full funding contract has been signed by all funding partners, or one for which a resolution to fund a preferred alignment has been adopted by the Los Angeles County Metropolitan Transportation Authority or its successor agency; or
- b. A bus stop with peak-hour headways of 15 minutes or less in two directions in at least two of the three hours between 4:00 P.M. and 7:00 P.M.; or
- c. The boundaries of the following three major economic activity areas, identified in the General Plan Framework Element: Downtown, LAX and the Port of Los Angeles; or
- d. The boundaries of a college or university campus with an enrollment exceeding 10,000 students.

**(c) Density Bonus.** Notwithstanding any provision of this Code to the contrary, the following provisions shall apply to the grant of a Density Bonus for a Housing Development Project:

**(1) For Sale or Rental Housing with Low or Very Low Income Restricted Affordable Units.** A Housing Development Project that includes 10% of the total units of the project for Low Income households or 5% of the total units of the project for Very Low Income households shall be granted a minimum Density Bonus of 20%. The bonus may be increased according to the percentage of affordable housing units provided, as follows, but shall not exceed 35%:

Percentage Low Income Units	Percentage Density Bonus
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

<b>Percentage Very Low Income Units</b>	<b>Percentage Density Bonus</b>
---	---------------------------------

5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35

(2) **For Sale or Rental Senior Citizen Housing (Market Rate).** A Senior Citizen Housing Development or a mobilehome park that limits residency based on age requirements for housing for older persons pursuant to California Civil Code Sections 798.76 or 799.5 shall be granted a minimum Density Bonus of 20%.

(3) **For Sale or Rental Senior Citizen Housing with Low or Very Low Income Restricted Affordable Units.** A Senior Citizen Housing Development or a mobilehome park that limits residency based on age requirements for housing for older persons pursuant to California Civil Code Sections 798.76 or 799.5 and includes at least 10% of the total units for Low Income households or 5% of the total units for Very Low Income households shall be granted an additional Density Bonus of 15% more than that permitted in Subparagraph (2) of this Paragraph, to a maximum of 35%.

(4) **For Sale Housing with Moderate Income Restricted Affordable Units.** A for sale Housing Development Project that includes at least 10% of its units for Moderate Income households shall be granted a minimum Density Bonus of 15%. The bonus may be increased according to the percentage of affordable housing units provided, as follows, but shall not exceed 35%:

<b>Percentage Moderate Income Units</b>	<b>Percentage Density Bonus</b>
---	---------------------------------

10	15
11	16
12	17
13	18
14	19

15	20
16	21
17	22
18	23
19	24
20	25
21	26
22	27
23	28
24	29
25	30
26	31
27	32
28	33
29	34
30	35

(5) **Land Donation.** An applicant for a subdivision, parcel map or other residential development approval that donates land for housing to the City of Los Angeles that satisfies the criteria of California Government Code Section 65915(h)(2) shall be granted a minimum Density Bonus of 15%.

(6) **Child Care.** A Housing Development Project that conforms to the requirements of Subparagraphs (1), (2), (3), (4) or (5) of this paragraph and includes a child care facility located on the premises of, as part of, or adjacent to, the project, shall be granted either of the following:

- (a) an additional Density Bonus that is, for purposes of calculating residential density, an increase in the floor area of the project equal to the floor area of the child care facility included in the project.
- (b) An additional Incentive that contributes significantly to the economic feasibility of the construction of the child care facility.

(7) **Fractional Units.** In calculating Density Bonus and Restricted Affordable units, any number resulting in a fraction shall be rounded up to the next whole number.

(8) **Other Discretionary Approval.** Approval of Density Bonus units shall not, in and of itself, trigger other discretionary approvals required by the Code.

(9) **Other Affordable Housing Subsidies.** Approval of Density Bonus units does not, in and of itself, preclude projects from receipt of other government subsidies for affordable housing.

(d) **Parking.** Required parking spaces for a Housing Development Project that qualifies for a Density Bonus and complies with this subdivision may be provided by complying with either Parking Option 1 or Parking Option 2 below. Required parking spaces for a Housing Development Project that does not qualify for a Density Bonus may be provided by complying with Parking Option 2 only.

(1) **Parking Option 1.** Required parking for all residential units in the Housing Development Project (not just the restricted units), inclusive of handicapped and guest parking, shall be reduced to the following requirements:

- (a) For each Residential Unit of 0-1 bedroom: 1 parking space.
- (b) For each Residential Unit of 2-3 bedrooms: 2 parking spaces.
- (c) For each Residential Unit of 4 or more bedrooms: 2½ parking spaces.
- (d) If the total number of required parking spaces results in a fraction, it shall be rounded up to the next whole number.

(2) **Parking Option 2.** Required parking for the Restricted Affordable Units only shall be reduced as set forth in Subparagraphs (i) and (ii) below. Required parking for all other non-restricted units in the Housing Development Project shall comply with applicable provisions of Section 12.21 of this Code.

- (a) One parking space per Restricted Affordable Unit, except:
  - (i) 0.5 parking space for each dwelling unit restricted to Low or Very Low Income Senior Citizens or Disabled Persons; and/or
  - (ii) 0.25 parking space for each Restricted Affordable Unit in a Residential Hotel.
- (b) Up to 40% of the required parking for the Restricted Affordable Units may be provided by compact stalls.

(e) **Incentives.** In addition to the Density Bonus and parking options identified in Paragraphs (c) and (d) of this subdivision, a Housing Development

Project that qualifies for a Density Bonus shall be granted the number of Incentives set forth in the table below.

Number of Incentives	Required Percentage* of Units Restricted for Very Low Income Households	Required Percentage* of Units Restricted for Low Income Households	Required Percentage* of Units Restricted for Moderate Income Households
One Incentive	5% or	10% or	10%
Two Incentives	10% or	20% or	20%
Three Incentives	15% or	30% or	20%

\* Excluding Density Bonus units.

**(f) Menu of Incentives.** Housing Development Projects that meet the qualifications of Paragraph (e) of this subdivision may request one or more of the following Incentives, as applicable:

(1) **Yard/Setback.** Up to 20% decrease in the required width or depth of any individual yard or setback except along any property line that abuts an R1 or more restrictively zoned property.

(2) **Lot Coverage.** Up to 20% increase in lot coverage limits.

(3) **Lot Width.** Up to 20% decrease from a lot width requirement.

(4) **Floor Area Ratio.**

(a) A percentage increase in the allowable Floor Area Ratio equal to the percentage of Density Bonus for which the Housing Development Project is eligible, not to exceed 35%;  
or

(b) In lieu of the otherwise applicable Floor Area Ratio, a Floor Area Ratio not to exceed 3:1 provided the parcel is in a commercial zone in Height District 1, and

(i) the Housing Development Project includes the number of Restricted Affordable Units sufficient to qualify for a 35% Density Bonus, and

(ii) 50% or more of the commercially zoned parcel is located in or within 1,500 feet of a Transit Stop/Major Employment Center.

(5) **Height.** A percentage increase in the height requirement in feet equal to the percentage of Density Bonus for which the Housing Development Project is eligible. This percentage increase in height will be allowed, notwithstanding the fact that, as a result of the height increase, the Housing Development Project may exceed the number of stories permitted by Section 12.21.1 of this Code. The percentage increase in height will be further limited as follows:

For Housing Development Projects on residentially-zoned parcels, which abut, or are across the street or alley from, an R1 or a more restrictive zone, the additional height may not exceed ten feet. On each side abutting, or across the street or alley from, a parcel in an R1 or more restrictive zone, any additional height above that permitted by the height district shall be stepped back one foot for each additional foot in height above that which is otherwise permitted. This exception does not apply to residentially-zoned properties across the street or alley from a property in the OS Zone.

(6) **Open Space.** Up to 20% decrease from an open space requirement.

(7) **Density Calculation.** The area of any land required to be dedicated for street or alley purposes may be included as lot area for purposes of calculating the maximum density permitted by the underlying zone in which the project is located.

(g) **Procedures.**

(1) **Density Bonus and Parking.** Housing Development Projects requesting a Density Bonus without any Incentives (which includes a Density Bonus with only parking requirements in accordance with Paragraphs (c) and (d) of this subdivision) shall be considered ministerial and follow the Affordable Housing Incentives Guidelines and the Density Bonus Procedures. No application for these projects need be filed with the City Planning Department.



**(2) Requests for Incentives on the Menu.**

- (a) For Housing Development Projects that qualify for a Density Bonus and that request up to three Incentives on the Menu of Incentives in Paragraph (f), and which require no other discretionary actions, the following procedures shall apply:
- (i) Application. The request shall be made on a form provided by the Department of City Planning, as set forth in Section 11.5.7 B 2(a) of this Code, accompanied by applicable fees.
  - (ii) Director's Authority. The Director shall have the initial decision-making authority to determine whether an application for Density Bonus is consistent with this subdivision and the Affordable Housing Incentives Guidelines.
  - (iii) Action. The Director shall approve a Density Bonus and requested Incentive(s) unless the Director finds that:
    - a. The Incentive is not required in order to provide for affordable housing costs as defined in California Health and Safety Code Section 50052.5, or for rents for the affordable units, or
    - b. The Incentive will 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 no feasible method to satisfactorily mitigate or avoid the Specific Adverse Impact without rendering the development unaffordable to Very Low-, Low- and Moderate-Income households.
  - (iv) Transmittal of Written Decision. Within three business days of making a decision, the Director shall transmit a copy by First Class Mail to the applicant and to all owners of properties abutting, across the street or alley from, or having a common corner with the subject

property, and to the local Certified Neighborhood Council.

(v) **Effective Date of Initial Decision.** The Director's decision shall become effective after an elapsed period of 15 calendar days from the date of the mailing of the written decision unless an appeal is filed to the City Planning Commission.

(vi) **Appeals.** An applicant or any owner of a property abutting, across the street or alley from, or having a common corner with the subject property aggrieved by the Director's decision may appeal the decision to the City Planning Commission pursuant to applicable procedures set forth in Section 11.5.7 C 6 of this Code that are not in conflict with the provisions of this Paragraph (g)(2)(a). The appeal shall include a filing fee pursuant to Section 19.01 B of this Code. The decision of the City Planning Commission shall be final. The City Planning Commission shall act upon and mail the decision within 35 calendar days of the last day of the appeal period.

(b) For Housing Development Projects that qualify for a Density Bonus and that request up to three Incentives listed in Paragraph (f) above, and which require other discretionary actions, the applicable procedures set forth in Section 12.36 of this Code shall apply.

(i) The decision must include a separate section clearly labeled "Density Bonus/Affordable Housing Incentives Program Determination".

(ii) The decision-maker shall approve a Density Bonus and requested Incentive(s) unless the decision-maker, based upon substantial evidence, makes either of the two findings set forth in Paragraph (g)(2)(a) (iii), above.

**(3) Requests for Incentives Not on the Menu.**

(a) For Housing Development Projects that qualify for a Density Bonus and that request an Incentive not included on the Menu of Incentives in Paragraph (f)

above, and which are not subject to other discretionary applications, the following shall apply:

- (i) The request shall be made on a form provided by the Department of City Planning, accompanied by applicable fees.
  - (ii) Notice and Hearing. The application shall follow the procedures for conditional uses set forth in Section 12.24 D of this Code. A public hearing shall be held by the City Planning Commission or its designee. The decision of the City Planning Commission shall be final.
  - (iii) The City Planning Commission shall approve a Density Bonus and requested Incentive(s) unless the Commission, based upon substantial evidence, makes either of the two findings set forth in Paragraph (g)(2)(a) (iii)c, above.
- (b) For Housing Development Projects requesting one or more Incentives not included on the Menu of Incentives in Paragraph (f) above, and which include other discretionary applications, the following shall apply:
- (i) The applicable procedures set forth in Section 12.36 of this Code shall apply.
  - (ii) The decision must include a separate section clearly labeled "Density Bonus/Affordable Housing Incentives Program Determination."
  - (iii) The decision-maker shall approve a Density Bonus and requested Incentive(s) unless the decision-maker, based upon substantial evidence, makes either of the two findings set forth in Paragraph (g)(2)(a) (iii), above.

**(h) Covenant.** Prior to issuance of a Certificate of Occupancy, the following shall apply:

- (1) For any Housing Development Project qualifying for a Density Bonus and that contains housing for Senior Citizens, a covenant acceptable to the Los Angeles Housing Department shall be recorded with the Los Angeles County Recorder, guaranteeing that the occupancy restriction to Senior Citizens

shall be observed for at least 30 years from the issuance of the Certificate of Occupancy or a longer period of time if required by the construction or mortgage financing assistance program, mortgage assistance program, or rental subsidy program.

- (2) For any Housing Development Project qualifying for a Density Bonus and that contains housing for Low or Very Low Income households, a covenant acceptable to the Los Angeles Housing Department shall be recorded with the Los Angeles County Recorder, guaranteeing that the affordability criteria will be observed for at least 30 years from the issuance of the Certificate of Occupancy or a longer period of time if required by the construction or mortgage financing assistance program, mortgage assistance program, or rental subsidy program.
- (3) For any Housing Development Project qualifying for a Density Bonus and that contains housing for Moderate Income households, a covenant acceptable to the Los Angeles Housing Department and consistent with the for sale requirements of California Government Code Section 65915(c)(2) shall be recorded with the Los Angeles County Recorder guaranteeing that the affordability criteria will be observed for at least ten years from the issuance of the Certificate of Occupancy.
- (4) If the duration of affordability covenants provided for in this subdivision conflicts with the duration for any other government requirement, the longest duration shall control.

(i) **Fee Deferral.** At the option of the applicant, payment of fees may be deferred pursuant to Sections 19.01 O and 19.05 A 1 of this Code.

(j) **Applicability.** To the extent permitted under applicable State law, if a conflict arises between the terms of this subdivision and the terms of the City's Mello Act Settlement Agreement Interim Administrative Procedures and Regulations for Complying with the Mello Act ("Mello Procedures") or any subsequent permanent Mello regulations, the Mello Procedures preempt this subdivision.

Sec. 2. The Title of Section 12.24 U 26 is hereby amended to read as follows:

26. Density Bonus for a Housing Development Project in which the density increase is greater than the maximum permitted in Section 12.22 A 25.

Sec. 3. Subparagraph (4) of Paragraph (a) of Subdivision 2 of Subsection V of Section 12.24 is hereby amended to read as follows:

- (4) that the developer has agreed, pursuant to Government Code Sections 65915-65918, to construct the development with the number of Restricted Affordable Units sufficient to qualify for a 35% Density Bonus, pursuant to Section 12.22 A 25 of the Code.

Sec. 4. The Title of Subdivision 2 of Subsection A of Section 14.00 is hereby amended to read as follows:

- 2. Density increase for a Housing Development Project to provide for additional density in excess of that permitted in Section 12.22 A 25.

Sec. 5. Subsection O of Section 19.01 is hereby amended to read:

**O. DENSITY INCREASE.**

Type of Application	Filing Fee
Application for a Density Bonus and a request for one or more Incentives included in the Menu of Incentives pursuant to Section 12.22 A 25(e).	\$1,065.00*
Application for a Density Bonus pursuant to Section 12.22 A 25 and a request for an Incentive not included in the Menu of Incentives pursuant to Section 12. 22 A 25(e).	\$3,742.00*
Application for a density increase in excess of that permitted by Section 12.22 A 25 pursuant to Section 12.24 U 25 and Section 14.00 A 2.	\$3,742.00*

\* Payment of the filing fee may be deferred until prior to the issuance of any Certificate of Occupancy, or until two years after the City’s final decision granting or denying the application, whichever comes first. Moreover, the payment may be deferred only if a covenant and agreement is recorded with the County Recorder, to the satisfaction of the Housing Department, which covenant and agreement preserves the affordability of the restricted units in the event that the application is granted. No Certificate of Occupancy for the development project may be issued unless the developer presents evidence that the fee has been paid and all other requirements for its issuance have been met.

Sec. 6. Statement of Intent. It is the intent of the City Council that the provisions of this ordinance shall apply to applications filed on or after the effective date of this ordinance.

Sec. 7. Severability. If any provision of this ordinance is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, that invalidity shall not affect the remaining provisions of this ordinance, which can be implemented without the invalid provisions, and to this end, the provisions of this ordinance are declared to be severable.

M:\Real Prop\_Env\_Land Use\Land Use\Kenneth Fong\SB 1818 Ordinance\SB 1818 Ordinance Draft No. 12 (revised may 17, 2007).doc

Sec. 8. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of \_\_\_\_\_.

FRANK T. MARTINEZ, City Clerk

By \_\_\_\_\_  
Deputy

Approved \_\_\_\_\_

\_\_\_\_\_  
Mayor

Approved as to Form and Legality

ROCKARD J. DELGADILLO, City Attorney

By \_\_\_\_\_  
KENNETH T. FONG  
Deputy City Attorney

Date \_\_\_\_\_

File No. \_\_\_\_\_

Pursuant to Charter Section 559, I **approve** this ordinance on behalf of the City Planning Commission and recommend that it be adopted . . . . .

June , 2007

See attached report.

\_\_\_\_\_  
S. Gail Goldberg  
Director of Planning