

ORDINANCE NO. 2286

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PLEASANTON APPROVING AMENDMENTS TO CHAPTERS 17.38 AND 18.08, AND 18.88 OF THE PLEASANTON MUNICIPAL CODE REGARDING DENSITY BONUS AND MAJOR TRANSIT STOP AS IDENTIFIED IN STATE LAW, AS FILED UNDER CASE P24-0334

WHEREAS, the City's Housing Element, which was adopted by City Council on January 26, 2023, was found in compliance with housing element law on August 25, 2023, by the California Department of Housing and Community Development and subsequently re-adopted by City Council on September 19, 2023, provides that the City will amend the affordable housing density bonus provisions to align with State Density Bonus Law, as stated in Program 2.7; and

WHEREAS, Sections 65915 et seq. of the California Government Code, known as State Density Bonus Law, require a city to provide a developer that proposes a housing development within the jurisdictional boundaries of that city containing affordable and other types of housing with a density bonus and other incentives; and

WHEREAS, California Government Code Section 65915(a) requires that all jurisdictions within the state adopt an ordinance that specifies how compliance with State Density Bonus Law will be implemented; and

WHEREAS, since adoption of the City's density bonus ordinance, the State Legislature has passed, and the Governor has signed into law, numerous changes to State Density Bonus Law; and

WHEREAS, the City proposes to codify a method to measurement from a major transit stop for purposes of implementing various sections of State law; and

WHEREAS, on September 11, 2024, the Planning Commission following notification to the public in the prescribed manner, conducted a public hearing, considered the written agenda report, public testimony, related project materials, and staff recommendations, and has reviewed the proposed amendments to the Pleasanton Municipal Code, has found that the proposed amendments are consistent with goals and policies of the City's General Plan and recommended that the City Council adopt the municipal code amendments.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PLEASANTON DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Finds that the amendments to the Pleasanton Municipal Code are within the scope of the 2023-2031 (6th Cycle) Housing Element Update Environmental Impact Report (State Clearinghouse No. 2022040091) certified by the City Council on January 26, 2023 by Reso No. 23-1357. The proposed amendments do not result in new significant effects beyond those analyzed in the Final EIR. The City Council further finds that the proposed amendments are exempt from CEQA review pursuant to: CEQA Guidelines Section 15268 in that the amendments are necessary to conform to and implement the ministerial approval processes mandated by State law (e.g., Government Code Section 65915; Public Resources Code Section 21155); CEQA Guidelines Section 15061(b)(3) in that there is no possibility the activity will have a significant effect on the environment.

SECTION 2. Approves amendments to Chapters 17.38 and 18.08, and 18.88 of the Pleasanton Municipal Code regarding density bonus and major transit stop as identified in State law, as filed under Case P24-0334 and attached to this ordinance as Exhibit A.

SECTION 3. A summary of this ordinance shall be published once within fifteen (15) days after its adoption in "The Valley Times," a newspaper of general circulation published in the City of Pleasanton, and the complete ordinance shall be posted for fifteen (15) days in the City Clerk's office within fifteen (15) days after its adoption.

SECTION 4. This ordinance shall be effective thirty (30) days after its passage and adoption.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Pleasanton, California, on October 15, 2024, and adopted on November 19, 2024, by the following vote:

Ayes:	Councilmembers Arkin, Balch, Nibert, Testa, Mayor Brown
Noes:	None
Absent:	None
Abstain:	None



Karla Brown, Mayor

ATTEST:



Jocelyn Kwong, City Clerk

APPROVED AS TO FORM:



Daniel G. Sodergren, City Attorney

EXHIBIT A

TITLE 17 PLANNING AND RELATED MATTERS

Chapter 17.38 AFFORDABLE HOUSING DENSITY BONUS

Sections

- 17.38.010 Purpose.
- 17.38.020 Definitions.
- 17.38.030 Application requirements.
- 17.38.040 Review process.
- 17.38.050 Affordability requirements.
- 17.38.060 Density bonus calculations.
- 17.38.070 Development standards.
- 17.38.080 Density bonus for commercial development.
- 17.38.090 Conflict of interest.
- 17.38.100 Interpretation.

17.38.010 Purpose.

In accordance with Government Code Sections 65915, et seq., this chapter specifies how compliance with state density bonus law will be implemented. Specifically, the purpose of this chapter is to provide density bonuses, incentives, concessions, and waivers of development standards for the production of housing for very low-, low-, and moderate-income households, senior households, provision of daycare facilities, student housing, and donations of land, and for other housing types as provided by state law. In enacting this chapter, it is also the intent of the city to implement the goals, objectives, and policies of the city's housing element of the general plan.

17.38.020 Definitions.

The definitions found in state density bonus law shall apply to the terms contained in this chapter. "Incentives" include "concessions" as defined in state density bonus law.

The following terms are defined for purpose of this chapter:

- A. "Affordable units" means the proposed housing units available for rent or sale to households pursuant to the state density bonus law, as set forth in Government Code section 65915 subdivision (b), as may be amended.
- B. "Base units" means the total number of units in a housing development, not including units added through a density bonus pursuant to this chapter.
- C. "Child care facility" means a child day care facility that provides nonmedical care to children under 18 years of age in need of personal services, supervision, or assistance essential for sustaining the activities of

daily living or for the protection of the individual on less than a 24-hour basis. Child day care facility includes day care centers, employer-sponsored child care centers, and family day care homes.

- D. "Concession" shall have the same meaning as the term "concession or incentive" pursuant to the state density bonus law, as defined in Government Code section 65915 subdivision (k), as may be amended.
- E. "Density bonus" means a density increase over the otherwise maximum allowable residential density for a housing development as of the date the application is deemed complete, as prescribed by Government Code section 65915, as may be amended, or, if elected by the applicant, a lesser percentage of density increase, including, but not limited to, no increase in density.
- F. "Housing development" shall have the same meaning as the term "housing development" pursuant to the state density bonus law, as defined in Government Code section 65915 subdivision (i), as may be amended.
- G. "Identifiable and actual cost reduction to provide for affordable housing cost" means a reasonably quantifiable cost reduction that would be achieved for a housing development through a concession.
- H. "Reasonable documentation to establish eligibility for a concession" means a credible written explanation or other documentation demonstrating to the reasonable satisfaction of the Planning Director or designee that a concession will achieve an identifiable and actual cost reduction to provide for affordable housing cost.
- I. "Senior citizen housing development" means a residential development developed, substantially rehabilitated, or substantially renovated for, senior citizens that has at least 35 dwelling units, as defined in the Civil Code Section 51.3, or a mobile home park that limits residency based on age requirements for housing for older persons pursuant to Civil Code Sections 798.76 or 799.5.
- J. "State density bonus law" means Government Code Section 65915, et seq, as the same may be renumbered or amended.

17.38.030 Application Requirements.

- 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(b), (c), (f), (g), (h) and (v), or in Government Code Section 65915.5, or successor provisions. The density bonus calculations shall be made in accordance with state density bonus law.
- B. The granting of a density bonus, incentive, or concession, pursuant to this chapter, shall not be interpreted, in and of itself, to require a general plan amendment, development code amendment, zone change, other discretionary approval, or the waiver of a city ordinance or provisions of a city ordinance unrelated to development standards.
- C. All requests for density bonuses, incentives, parking reductions, and waivers for a housing development shall be filed with and on a form provided by the Director of Community Development, or their designee, concurrently with the filing of the planning application for the first discretionary or ministerial permit required for the housing development, whichever permit is earliest. The applicant shall be informed whether the application is complete consistent with Government Code Section 65943.

D. The application shall include the required fee and the following minimum information:

1. For a requested density bonus.
 - a. A project summary table demonstrating the basis under the state density bonus law on which the applicant is requesting a density bonus, including the maximum allowable density permitted by the zoning and general plan designations excluding any density bonus; base units; proposed number of affordable units by income level; proposed bonus percentage; total number of dwelling units; residential gross floor area and total gross floor area proposed; density per acre; proposed number of parking spaces; and unit and bedroom counts and unit types for the purpose of calculating parking requirements;
 - b. A preliminary site plan, drawn to scale, showing the number and location of all proposed units;
 - c. A legal description of the site;
 - d. A boundary survey;
 - e. An identification of the maximum density bonus to which the housing development is entitled on the basis requested;
 - f. An identification of any concession(s) sought and reasonable documentation consisting of a detailed written statement to establish eligibility for the concession(s);
 - g. An identification of any waiver(s) sought and a detailed written explanation of why the development standard from which any waiver is sought would have the effect of physically precluding the construction of the housing development at the density and with any concession(s) or parking ratio reduction sought.
 - h. If the housing development is proposed on any property that includes a parcel or parcels with existing dwelling units or dwelling units that have been vacated or demolished in the five-year period preceding the application, an explanation of how the project meets the state density bonus law's replacement housing requirements, if applicable, set forth in Government Code section 65915 subdivision (c)(3), as may be amended.
 - i. If the density bonus or concession requested is based all or in part on the inclusion of a child-care facility, a written summary addressing the eligibility requirements pursuant to state density bonus law, as set forth in Government Code section 65915 subdivision (h), as may be amended, have been met.
 - j. If the density bonus or concession is based all or in part on the inclusion of affordable units as part of a condominium conversion, written summary addressing the eligibility

requirements pursuant to state density bonus law, set forth in Government Code section 65915.5, as may be amended, have been met.

- k. If the 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 pursuant to state density bonus law, set forth in Government Code section 65915 subdivision (g), as may be amended, can be met.
 - l. A marketing plan for the affordable housing 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 affordable housing units. For a housing development with 15 dwelling units or more, the density bonus housing plan shall specify a financing mechanism for ongoing administration and monitoring of the affordable housing units.
2. **Requested incentives.** Incentives are those defined by state density bonus law. The number of incentives that may be requested shall be based upon the number the applicant is entitled to pursuant to state density bonus law. The application shall include the following minimum information for each incentive requested, shown on a site plan (if appropriate):
 - a. The city usual regulation and the requested regulatory incentive or concession.
 - b. 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.
 - c. 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 include, shown on a site plan, and shown for each existing or proposed parcel (if applicable), the city required development standard and the requested development standard.
 4. **Parking reductions.** If a housing development is eligible for a density bonus pursuant to state density bonus law, the applicant may request an on-site vehicular parking ratio specified in Government Code Section 65915(p). An applicant may request this parking reduction in addition to the incentives and waivers permitted by paragraphs (2) and (3) of this subsection. The application shall include a table showing parking required by the zoning regulations, parking proposed under state density bonus law, paragraph under Government Code Section 65915(p) (or other statute) under which the project qualifies for the parking reduction, and reasonable documentation that the project is eligible for the requested parking reduction.
 5. **Density bonus or incentive for a child care 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.

17.38.040 Application review process.

- A. All requests under state density bonus law shall be part of the planning application and shall be applied for, reviewed, and acted upon concurrently with the planning application by the approval body with authority to approve the development, within the timelines prescribed by Government Code Section 65950 et seq. or other statute. Appeals of the planning application in accordance with the requirements of chapter 18.144 of this code and shall include all requests under state density bonus law if appeals are authorized for the discretionary or ministerial permit applied for.
- B. To ensure that an application for a housing development 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 following requirements of state density bonus law, as applicable:
 1. The housing development provides the housing required by state density bonus law to be eligible for a density bonus and any incentives, parking reduction, or waivers requested, including housing required to replace units rented or formerly rented to very low- and low-income households as required by Government Code Section 65915(c)(3).
 2. If applicable, the housing development provides the housing required by state density bonus law to be eligible for an additional density bonus under Government Code Section 65915(v)(1).
 3. 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).
 4. If a waiver is requested, the development standards for which a waiver is requested would have the effect of physically precluding the construction of the housing development at the densities or with the incentives permitted.
 5. The housing development is eligible for any requested parking reductions under Government Code Section 65915(p) or other statute.
 6. If the density bonus is based all or in part on donation of land, the requirements of Government Code Section 65915(g) have been met.
 7. If the density bonus or incentive is based all or in part on the inclusion of a child care facility or condominium conversion, the requirements included in Government Code Section 65915(h) or 65915.5, as appropriate, have been met.
- C. The decision-making body shall grant an incentive requested by the applicant unless it makes a written finding, based upon substantial evidence, of any of the following:

1. The proposed incentive does not result in identifiable and actual cost reductions to provide for affordable housing costs, as defined in Health and Safety Code Section 50052.5; or for affordable rents, as defined in Health and Safety Code Section 50053; or
 2. The proposed incentive would be contrary to state or federal law; or
 3. The proposed incentive would have a specific, adverse impact upon the public health or safety or on any real property that is 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 housing development 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 housing development was deemed complete as defined in Government Code Section 65589.5.
- D. The decision-making body shall grant the waiver of development standards requested by the applicant unless it makes a written finding, based upon substantial evidence, of any of the following:
1. The proposed waiver would be contrary to state or federal law; or
 2. The proposed waiver would have an adverse impact on any real property listed in the California Register of Historic Resources; or
 3. The proposed waiver would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the housing development 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 housing development was deemed complete as defined in Government Code Section 65589.5.
- E. If a child care center complies with the requirements of Government Code Section 65915(h), the decision-making body may deny a density bonus or incentive that is based on the provision of child care facilities only if it makes a written finding, based on substantial evidence, that the city already has adequate child care facilities.
- F. A request for minor modification of an approved density bonus may be granted by the Director of Community Development, or their designee, if the modification substantially complies with the original density bonus housing plan and conditions of approval. Other modifications to the density bonus housing plan shall be processed in the same manner as the original plan.

17.38.050 Affordability requirements.

- A. Affordable rental units provided by a housing development to meet state density bonus law requirements shall be subject to an affordable housing agreement recorded against the housing development for at least a 55-year term or as required by chapter 17.44, commencing upon the issuance of certificates of occupancy. The form of the affordable housing agreement shall be approved by the city attorney.

- B. For-sale affordable units provided by a housing development to meet state density bonus requirements shall be subject to a recorded affordable housing agreement approved as to form by the city attorney commencing upon the issuance of certificates of occupancy. The affordable housing agreement shall, at a minimum, require that:
 - 1. Each for-sale affordable unit shall be sold to an income qualified household at an affordable housing cost, as defined in the affordable housing agreement; and
 - 2. Each for-sale affordable unit shall be sold to the initial purchaser subject to a recorded resale restriction agreement approved as to form by the city attorney, which shall:
 - a. Have no less than a 45-year term or as required by chapter 17.44 of this title if required by another public financing source or law;
 - b. Restrict the resale price of the unit to an affordable housing cost, as defined in the resale restriction agreement; and
 - c. Require that if the unit is sold to a subsequent purchaser during the term of the agreement, the purchaser shall purchase the unit subject to a resale restriction agreement approved as to form by the city attorney with a new 45-year term or longer if required by another public financing source or law.

17.38.060 Density bonus calculations.

- A. 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.
- B. When calculating the number of affordable units needed to qualify for a given density bonus, any fractions of affordable dwelling units shall be rounded up to the next whole number.
- C. 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.
- D. In determining the number of affordable 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 shall satisfy the city's inclusionary housing requirements in chapter 17.44. Payment of fees in lieu of providing affordable units under chapter 17.44 does not qualify a housing development for a density bonus.
- E. 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 affordable units required by state density bonus law. Regardless of the number of affordable units, no housing development shall be entitled to a density bonus greater than what is authorized under state density bonus law.

- F. Nothing in this chapter requires the provision of direct financial incentives from the city 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 city, at its sole discretion, may choose to provide such direct financial incentives.

17.38.070 Development standards.

- A. Building permits and final inspections or certificates of occupancy shall be issued concurrently for the market rate units and for any affordable units that qualified the project for a density bonus, incentive, waiver, or parking reduction, so that the affordable units comprise the required percentage of total units.
- B. All units provided as density bonus units shall comply with the development standards set forth in Section 17.44.050 of this code.

17.38.080 Density bonus for commercial development.

- A. The following definitions shall apply to this Section 17.38.080:
 - 1. "Commercial development" means a development project for nonresidential and nonindustrial uses.
 - 2. "Commercial development bonus" means modification of development standards mutually agreed upon by the city and a commercial developer and provided to a commercial development eligible for such a bonus under subparagraph 17.38.080(C). Examples of a commercial development bonus include an increase in floor area ratio, increased building height, or reduced parking.
 - 3. "Partnered housing agreement" means an agreement approved by the city between a commercial developer and a housing developer identifying how the commercial development will provide housing available at an affordable ownership cost or affordable rent consisted with subparagraph (h)(3). A partnered housing agreement may consist of the formation of a partnership, limited liability company, corporation, or other entity recognized by the state in which the commercial developer and the housing developer are each partners, members, shareholders, or other participants, or a contract between the commercial developer and the housing developer for the development of both the commercial developer and the housing development.
- B. When an applicant proposes to construct a commercial development and has entered into a partnered housing agreement approved by the city, the city shall grant a commercial development bonus mutually agreed upon by the developer and the city. The commercial development bonus shall not include a reduction or waiver in fees imposed on the commercial development to provide for affordable housing.
- C. The partnered housing agreement shall include all of the following provisions:
 - 1. The housing development shall be located either: (i) on the site of the commercial development; or (ii) on a site within the city that is within one-half mile of a major transit stop, as defined in Public Resources Code Section 21155, and is in close proximity to public amenities, including schools and employment centers.

2. At least thirty percent (30%) of the total units in the housing development shall be made available at an affordable ownership cost or affordable rent to low-income households, or at least fifteen percent (15%) of the total units in the housing development shall be made available at an affordable ownership cost or affordable rent to very low-income households.
 3. The commercial development must agree either to directly build the affordable housing units, donate a site consistent with the requirements of Government Code Section 65915(g) for the development of the affordable housing units, or make a cash payment to the housing developer for the development of the affordable housing units.
- D. An approved partnered housing agreement shall be described in the city Housing Element annual report as required by Government Code Section 65915.7(k).

17.38.090. Conflict of interest.

The following individuals are ineligible to purchase or rent an affordable unit: (A) city employees and officials who have policy making authority or influence regarding city housing programs, and their immediate family members; (B) the project applicant and its officers and employees and their immediate family members; and (C) the project owner and its officers and employees and their immediate family members.

17.38.100 Interpretation.

If any portion of this chapter conflicts with state density bonus law or other applicable state law, state law shall supersede this chapter. Any ambiguities in this chapter shall be interpreted to be consistent with state density bonus law. Statutory references in this ordinance include successor provisions.

**TITLE 18
ZONING**

CHAPTER 18.08 DEFINITIONS

18.08.332 Major transit stop.

“Major transit stop” means a site containing either of the following, or as amended by state law:

- A. An existing public rail or public bus rapid transit station.
- B. The intersection of two or more major public bus routes with a frequency of service interval of 20 minutes or less during the morning and afternoon peak commute periods.

Unless otherwise defined by state law, a distance or radius from the major transit stop shall be measured from a single point at the center of the stop or station. Where a station/stop includes infrastructure, such as platforms, bus transfer facilities, and/or parking areas, a single centroid shall be used. If a project site is partially within the radius measurement from the single point, a project shall be considered to be within the radius if: (1) all parcels within the project have no more than 25 percent of their area farther than the specified distance from the major transit stop; and (2) if residential units are proposed, not more than 10

percent of the residential units or 100 units, whichever is less, in the project are farther than the specified distance from the major transit stop.

CHAPTER 18.88 OFF-STREET PARKING FACILITIES

18.88.020 Basic Requirements.

A. Unless otherwise provided in state law or this chapter, at the time of initial occupancy, major alteration, or enlargement of sites, or of completion of construction of a structure or of a major alteration or enlargement of a structure, there shall be provided off-street parking facilities for automobiles in accordance with the schedule of off-street parking space requirements prescribed in Section 18.88.030 of this chapter. Except as modified in subsection D of this section, the terms "major alteration" or "enlargement" shall mean a change of use or an addition which would increase the number of parking spaces required by not less than 10 percent of the total number required. The number of parking spaces provided for a major alteration or enlargement of a site or structure shall be in addition to the number existing prior to the alteration or enlargement, unless the preexisting number is greater than the number prescribed in Section 18.88.030 of this chapter, in which instance the number in excess of the prescribed minimum shall be counted in calculating the number provided to serve the major alteration or enlargement.