

City Council Meeting: May 14, 2024

Santa Monica, California

ORDINANCE NUMBER 2779 (CCS)

(City Council Series)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA TO AMEND THE TEXT OF THE CITY'S ZONING ORDINANCE TO UPDATE PROVISIONS RELATED TO STATE DENSITY BONUS LAW FOR CONSISTENCY WITH RECENT AMENDMENTS TO STATE LAW ADOPTED BY AB 1287 AND MAKING OTHER MINOR CHANGES, CORRECTIONS, AND CLARIFICATIONS

WHEREAS on October 11, 2023, the Governor signed an extensive housing package into law, consisting of 56 bills to help address California's decades-in-the-making housing crisis by simplifying and expediting the construction of new housing, protecting tenants, and keeping housing affordable (the "2023 State Housing Package"); and

WHEREAS, the 2023 State Housing Package includes AB 1287, which amends State Density Bonus Law to, among other amendments, provide an additional density bonus and an additional incentive or concession to certain qualifying projects that provide for the development of housing units available to very low- and moderate-income households; and

WHEREAS on December 6, 2023, the Planning Commission adopted a Resolution of Recommendation, Resolution Number 23-011 (PCS), declaring its intention to consider recommending to the City Council that the City Council amend the text of the Zoning Ordinance for consistency with these recent changes to State Density Bonus Law, including AB 1287, and making further amendments as be necessary to make minor changes, corrections, and clarifications; and

WHEREAS, on March 6, 2024, the Planning Commission conducted a duly noticed public hearing, and, after considering oral and written testimony regarding the proposed

amendments to the text of the Zoning Ordinance, adopted Resolution Number 24-001 (PCS), recommending that the City Council amend the text of the zoning ordinance for consistency with recent changes to State Density Bonus Law, including, but not limited to, AB 1287, and making further amendments as be necessary to make minor changes, corrections, and clarifications based on the following findings:

1. The proposed amendments to the text of the Zoning Ordinance are consistent with the General Plan and any applicable Specific Plans in that the proposed amendments support policies in the Land Use and Circulation Element to the General Plan, the 6th Cycle (2021-2029) Housing Element, Bergamot Area Plan and Downtown Community Plan that support housing production in a manner consistent with State law.

2. The proposed amendments are consistent with the purposes of the Zoning Ordinance in that they update provisions for consistency with State Density Bonus Law, promote the growth of the City in an orderly manner, and promote and protect the public health, safety, and general welfare.

WHEREAS, on April 23, 2024, the City Council conducted a duly noticed hearing to consider the findings and recommendations of the Planning Commission, and desires to adopt the proposed Zoning Ordinance amendments as set forth below.

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

SECTION 1. Based upon the oral and written testimony presented to the City Council at the public hearing on April 23, 2024, regarding the proposed changes to the text of the Zoning Ordinance, the City Council hereby makes the following findings:

1. The amendments to the text of the Zoning Ordinance are consistent with the General Plan and any applicable Specific Plans in that the amendments support policies in the Land Use and Circulation Element to the General Plan, the 6th Cycle (2021-2029) Housing Element, Bergamot Area Plan and Downtown Community Plan that support housing production in a manner consistent with State law.

2. The amendments are consistent with the purposes of the Zoning Ordinance in that they update provisions for consistency with State Density Bonus Law, promote the growth of the City in an orderly manner, and promote and protect the public health, safety, and general welfare.

SECTION 2. Santa Monica Municipal Code Section 9.22.030 is hereby amended to read as follows:

**9.22.030 Definitions**

As used in this Chapter:

A. **“Affordable housing cost”** means affordable housing cost as defined in Health and Safety Code Section 50052.5.

B. **“Affordable rent”** means affordable rent as defined in Health and Safety Code Section 50053.

C. **“Childcare facility”** means a child daycare facility other than a family day care, including, but not limited to, infant centers, preschools, extended daycare facilities and school age childcare centers.

D. **“Common interest development”** means common interest development as defined in Civil Code Section 4100.

E. **“Concession or incentive”** means any of the following:

1. A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, including, but not limited to, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required that results in identifiable and actual cost reductions, to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in Government Code Section 65915(c).

2. Approval of mixed-use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if the commercial, office, industrial, or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located.

3. Other regulatory incentives or concessions proposed by the developer or the city, county, or city and county that result in identifiable and actual cost reductions to provide for affordable housing costs, as defined in Section 50052.5 of the Health and

Safety Code, or for rents for the targeted units to be set as specified in Government Code Section 65915(c).

F. **“Density bonus”** means a density increase over the otherwise maximum allowable gross residential density as of the date of application for first planning entitlement or permit, or, if elected by the applicant, a lesser percentage of density increase, including, but not limited to, no increase in density.

G. **“Development standard”** means a site or construction condition, including, but not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open-space requirement, a minimum lot area per unit requirement, or a parking ratio that applies to a residential development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation.

H. **“Housing development”** means a development project for five or more residential units, including a mixed-use development. For purposes of this Chapter, “housing development” also includes a subdivision or common interest development, as defined in Section 4100 of the Civil Code, approved by the City and consists of residential units or unimproved residential lots and either a project to substantially rehabilitate and convert an existing commercial building to residential use or the substantial rehabilitation of an existing multifamily dwelling, as defined in Government Code Section 65863.4(d), where the result of the rehabilitation would be a net increase in available residential units.

I. **“Located within one-half mile of a major transit stop”** means that any point on a proposed development, for which an applicant seeks a density bonus, other incentives or concessions, waivers or reductions of development standards, or a vehicular parking ratio pursuant to this section, is within one-half mile of any point on the property on which

a major transit stop is located, including any parking lot owned by the transit authority or other local agency operating the major transit stop.

J. **“Lower income households”** means lower income households as defined by Health and Safety Code Section 50079.5.

K. **“Major transit stop”** shall mean a major transit stop as defined in Public Resources Code Section 21155(b).

L. **“Maximum allowable residential density”** or **“base density”** means the greatest number of units allowed under the Zoning Ordinance, Article IX of this Municipal Code (the “Zoning Ordinance”), specific plan, or the Land Use and Circulation Element (LUCE), or, if a range of density is permitted, means the greatest number of units allowed by the specific zoning district, as set forth in Division 2 of the Zoning Ordinance, specific plan, or the LUCE applicable to the project. If a housing development is subject to tiered development standards, the “maximum allowable residential density” or “base density” shall mean the greatest number of units allowed at the selected tier.

M. **“Moderate-income households”** means moderate-income households as defined in Health and Safety Code Section 50053.

N. **“Persons and families of moderate income”** means persons and families of moderate income as defined in Health and Safety Code Section 50093.

O. **“Shared housing building”** means a residential or mixed-use structure, with five or more shared housing units and one or more common kitchens and dining areas designed for permanent residence of more than 30 days by its tenants. The kitchens and dining areas within the shared housing building shall be able to adequately accommodate all residents. A “shared housing building” may include other dwelling units that are not

shared housing units, provided that those dwelling units do not occupy more than 25 percent of the floor area of the shared housing building. A shared housing building may include 100 percent shared housing units.

P. **“Shared housing unit”** means one or more habitable rooms, not within another dwelling unit, that includes a bathroom, sink, refrigerator, and microwave, is used for permanent residence, that meets the “minimum room area” specified in Section R304 of the California Residential Code (Part 2.5 of Title 24 of the California Code of Regulations), and complies with the definition of “guestroom” in Section R202 of the California Residential Code. If a local ordinance further restricts the attributes of a shared housing building beyond the requirements established in this section, the local definition shall apply to the extent that it does not conflict with the requirements of this section.

Q. **“Total units” or “total dwelling units”** means a calculation of the number of units that:

(i) Excludes unit(s) added by a density bonus awarded pursuant to this section or any local law granting a greater density bonus; and

(ii) Includes unit(s) designated to satisfy the requirements of Chapter 9.64, Affordable Housing Production Program.

(iii) For purposes of calculating a density bonus granted pursuant to this section for a shared housing building, “unit” means one shared housing unit and its pro rata share of associated common area facilities.

R. **“Very low income households”** means very low income households as defined in Health and Safety Code Section 50105.

S. **“Very low vehicle travel area”** means an urbanized area, as designated by the United States Census Bureau, where the existing residential development generates vehicle miles traveled per capita that is below 85 percent of either regional vehicle miles traveled per capita or city vehicle miles traveled per capita. For purposes of this paragraph, “area” may include a travel analysis zone, hexagon, or grid. For the purposes of determining “regional vehicle miles traveled per capita” pursuant to this paragraph, a “region” is the entirety of incorporated and unincorporated areas governed by a multicounty or single-county metropolitan planning organization, or the entirety of the incorporated and unincorporated areas of an individual county that is not part of a metropolitan planning organization.

SECTION 3. Santa Monica Municipal Code Section 9.22.040 is hereby amended to read as follows:

**9.22.040 Eligibility**

A. Except as set forth in subsection B, a housing development project shall be eligible for a density bonus and additional incentives, concessions, waivers or reductions of development standards, and parking ratios as set forth in this Section.

1. The City will grant one density bonus, the amount of which shall be specified in Section 9.22.050, and, if requested by the applicant and consistent with the applicable requirements of this Chapter, incentives and concessions, as set forth in Section 9.22.060(A) and (B), waivers or reductions of development standards, as set forth in Section 9.22.070, and parking ratios, as described in Section 9.22.060(C), to the applicant of a housing development when the applicant seeks and agrees to construct a housing



development project that will, excluding any units permitted by the density bonus awarded pursuant to this Chapter, contain at least any one of the following:

- a. 10% of the total units of the housing development, including shared housing building development, for lower income households;
- b. 5% of the total units of the housing development, including shared housing building development, for very low income households;
- c. A senior citizen housing development as defined in Section 51.3 and 51.12 of the Civil Code or a qualifying mobile home park that limits residency based on age requirements for older persons pursuant to Section 798.76 or 799.5 of the Civil Code, including a shared housing building development meeting this criteria;
- d. 10% of the total units of a housing development are sold to persons and families of moderate income, provided that all units in the development are offered to the public for purchase;
- e. 10% of the total units of a housing development for transitional foster youth, as defined by Section 66025.9 of the Education Code, disabled veterans, as defined by Section 18541 of the Government Code, or homeless persons, as defined in the Federal McKinney-Vento Homeless Assistance Act (42 U.S.C. 11301 et seq.) affordable at the same level as very low income units;
- f. 20% of the total units for lower income students in a student housing development that meets the requirements of Government Code Section 65915(b)(1)(F);
- g. 100% of all units in the development, or shared housing building development, including total units and density bonus, but exclusive of manager's

unit or units, are for lower income households, except that up to 20% of the units in the development, including total units and density bonus units, may be for moderate-income households; or

h. 100% Affordable Housing Projects as defined in Section 9.52.020.0050.

2. **Land Donations.** An applicant for a tentative subdivision map, parcel map, or other residential development approval that donates land to the City in accordance with Government Code Section 65915(g) shall be eligible for a density bonus in accordance with the terms and conditions of Government Code Section 65915(g).

3. **Housing Development with Childcare Facility.** An applicant that proposes to construct a housing development that conforms to the requirements of subsection (A)(1) and that also includes a childcare facility that will be located on the premises of, as part of, or adjacent to the project shall be eligible for a density bonus in accordance with the terms and conditions of Government Code Section 65915(h).

B. Notwithstanding subsection A, an applicant that submits an application for housing development, including a planning entitlement or permit, shall be ineligible for a density bonus or any other incentive or concession under this Chapter if the housing development is proposed on a property that includes a parcel or parcels that contains: (1) rental dwelling units that are located, or, if the dwelling units have been vacated or demolished in the 5-year period preceding the application, have been subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons or families of lower or very low income; (2) rental units that are controlled rental units pursuant to City Charter Section 1800 et seq., subject to Civil Code Section 1947.12, or subject to any other form

of State or local rent or price control; or (3) units occupied by lower or very low income households, unless the proposed housing development replaces those units, and either of the following applies:

1. The proposed housing development, inclusive of the units replaced pursuant to this Section, contains affordable units at the percentages set forth in Section 9.22.050(B).

2. Each unit in the development, exclusive of manager's unit or units, is affordable to, and occupied by, either a lower or very low income household.

C. For purposes of this Section, "replace" shall mean either of the following:

1. If any dwelling units described in this Section are occupied on the date of application, the proposed housing development shall provide at least the same number of units of equivalent size to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those households in occupancy. If the income category of the household in occupancy is not known, it shall be rebuttably presumed that lower income renter households occupied these units in the same proportion of lower income renter households to all renter households within the jurisdiction, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database.

For unoccupied dwelling units described in subsection A in a development with occupied units, the proposed housing development shall provide units of equivalent size to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category. If the income category of

the last household in occupancy is not known, it shall be rebuttably presumed that lower income renter households occupied these units in the same proportion of lower income renter households to all renter households within the jurisdiction, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database.

All replacement calculations resulting in fractional units shall be rounded up to the next whole number. If the replacement units will be rental dwelling units, the replacement units shall be subject to a recorded affordability restriction for at least 55 years in accordance with Section 9.22.050(D). If the proposed development is for-sale units, the units replaced shall be subject to Government Code Section 65915(c)(2).

2. If all dwelling units described in subsection A have been vacated or demolished within the 5-year period preceding the application, the proposed housing development shall provide at least the same number of units of equivalent size as existed at the highpoint of those units in the 5-year period preceding the application to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those persons and families in occupancy at that time, if known. If the incomes of the persons and families in occupancy at the highpoint is not known, it shall be rebuttably presumed that low-income and very low income renter households occupied these units in the same proportion of low-income and very low income renter households to all renter households within the jurisdiction, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database. All replacement calculations resulting in fractional units shall be rounded up to

the next whole number. If the replacement units will be rental, the replacement units shall be subject to a recorded affordability restriction for at least 55 years in accordance with subsection 9.22.050(D). If the proposed development is for-sale units, the units replaced shall be subject to Government Code Section 65915(c)(2).

3. Notwithstanding paragraphs (1) and (2), for any dwelling unit described in subsection A that is or was, within the 5-year period preceding the application, a controlled rental unit pursuant to City Charter Section 1800 et seq., a rental unit subject to Civil Code Section 1947.12, or a rental unit subject to any other form of State or local rent or price control, and that is or was occupied by persons or families above lower income, replacement units must be made available at affordable rent or affordable housing cost to, and occupied by, low-income persons or families. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years. If the proposed development is for-sale units, the units shall be replaced subject to Government Code Section 65915(c)(2).

4. For purposes of this Section, “equivalent size” means that the replacement units contain at least the same total number of bedrooms as the units being replaced.

SECTION 4. Santa Monica Municipal Code Section 9.22.050 is hereby amended to read as follows:

**9.22.050 Density Bonus**

A. An eligible applicant under Section 9.22.040 may seek a density bonus in the amounts set forth in this Section and in accordance with the procedures set forth in Section 9.22.080. Applicants may request a lesser percentage of density increase than that which is available for a housing development under this Section, including, but not

limited to, no increase in density; however, the City shall not be required to similarly reduce the number of units required to be dedicated pursuant to this Section and Government Code Section 65915(b).

**B. Determining Density Bonus Percentage.** Subject to the provisions of subsection 7, below, the number of density bonus units to be granted shall be determined as follows:

1. For housing developments that meet the criteria of Section 9.22.040(A)(1)(a), the density bonus shall be calculated as follows:

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
21	38.75
22	42.5
23	46.25
24	50

2. For housing developments that meet the criteria of Section 9.22.040(A)(1)(b), the density bonus shall be calculated as follows:

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

3. For housing developments that do not meet the criteria set forth in subsections 1 and 2, above, the density bonus shall be calculated as follows:

a. For housing developments that meet the criteria of Section 9.22.040(A)(1)(c), the density bonus shall be 20% of the number of senior housing units.

b. For housing developments that meet the criteria of Section 9.22.040(A)(1)(e), the density bonus shall be 20% of the number of the type of units giving rise to a density bonus under that paragraph.

c. For housing developments that meet the criteria of Section 9.22.040(A)(1)(f), the density bonus shall be 35% of the student housing units.

d. For 100% Affordable Housing Projects or housing developments that meet the criteria of Section 9.22.040(A)(1)(g), the following shall apply:

i. Except as otherwise provided in clause (ii), the density bonus shall be 80% of the number of units for lower income households.

ii. If the housing development is located within one-half mile of a major transit stop or is located in a very low vehicle travel area in a designated county, there shall be no maximum control on density.

4. For housing developments that meet the criteria of Section 9.22.040(A)(1)(d), the density bonus shall be calculated as follows:

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



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

5. Housing developments that meet the criteria of Section 9.22.040(A)(1) are eligible for an additional density bonus as set forth in this subsection.

a. To be eligible for an additional density bonus, a housing development shall meet the following requirements:

i. The resulting housing development would not restrict more than 50% of the total units to moderate-income, lower income, or very low income households;

ii. The housing development includes additional rental or for-sale units affordable to very low income households or moderate income households, and meets any of the following requirements:

A. Conforms to the requirements of Section 9.22.040(A)(1)(a) and provides 24 percent of the total units to lower income households.

B. Conforms to the requirements of Section 9.22.040(A)(1)(b) and provides 15 percent of the total units to very low income households.

C. Conforms to the requirements of Section 9.22.040(A)(1)(d) and provides 44 percent of the total units to moderate-income households.

b. For housing developments that meet the criteria above, the additional density bonus shall be calculated using one of the following tables:

<b>Additional Percentage Very Low Income Units</b>	<b>Additional Percentage Density Bonus</b>
5	20
6	23.75
7	27.5
8	31.25
9	35
10	38.75

<b>Additional Percentage Moderate-Income Units</b>	<b>Additional Percentage Density Bonus</b>
5	20
6	22.5
7	25

8	27.5
9	30
10	32.5
11	35
12	38.78
13	42.5
14	46.25
15	50

c. The increase required by this subsection shall be in addition to any increase to density granted by Section 9.22.050(A)(1-4).

d. The additional density bonus granted under this subsection shall be calculated using the number of units excluding any density bonus awarded by this Chapter.

6. An applicant for a tentative subdivision map, parcel map, or other residential development approval that donates land to the City in accordance with Government Code Section 65915(g) shall be entitled to a density bonus as provided by Government Code Section 65915(g).

7. To calculate density bonus for housing developments that provide onsite affordable units in accordance with Chapter 9.64, Affordable Housing Production Program, onsite affordable units required by Chapter 9.64 for housing development projects consisting of 20 units or more, shall be counted as very low-income units.

### C. **Calculating Base Density**

1. In residential districts, the maximum allowable residential or base density, as defined in 9.22.030(L), shall be determined using dwelling units per acre.

2. Except as provided in subsection (3) below, in non-residential districts which do not provide a dwelling-units-per-acre standard for density, the maximum allowable residential or base density shall be calculated by:

a. Estimating the realistic development capacity of the site based on the objective development standards applicable to the project, including, but not limited to, floor area ratio, site coverage, maximum building height and number of stories, building setbacks and stepbacks, public and private open space requirements, minimum percentage or square footage of any non-residential component, and parking requirements, unless not required for the base project. Parking requirements shall include considerations regarding number of spaces, location, design, type, and circulation. Applicants may provide a base density study which the City shall accept, provided that it includes all applicable objective development standards.

b. Maintaining the same average unit size and other project details relevant to the base density study, except those development standards or requirements that may be modified by waiver or concession to accommodate the bonus units, in the proposed project as in the study.

3. Notwithstanding subsection (2), for any housing development subject to tiered development standards, the maximum allowable residential density shall be based on the maximum number of units allowed for the selected tier in the zoning district. The maximum allowable residential or base density shall be calculated by:

a. Estimating the realistic development capacity of the site based on the objective development standards applicable to the project, including, but not

limited to, floor area ratio, site coverage, maximum building height and number of stories, building setbacks and stepbacks, public and private open space requirements, minimum percentage or square footage of any non-residential component, and parking requirements, unless not required for the base project. Parking requirements shall include considerations regarding number of spaces, location, design, type, and circulation. Applicants may provide a base density study which the City shall accept, provided that it includes all applicable objective development standards.

b. Maintaining the same average unit size and other project details relevant to the base density study, except those development standards or requirements that may be modified by waiver or concession to accommodate the bonus units, in the proposed project as in the study.

**D. Calculating Density Bonus.**

1. Density bonus shall be calculated by the following formula:

$$\text{Density bonus} = \text{base density} \times \text{percentage density bonus granted}$$

Eligibility for any additional density bonus granted under Section 9.22.050(B)(5) shall require first calculating the maximum density bonus granted by Section 9.22.050(B)(1-4).

2. Except as provided in Section 9.22.050(B)(5), for purposes of calculating the amount of the density bonus pursuant to subsection B, a housing development is entitled to only one density bonus over maximum allowable residential density or base density. An applicant who requests a density bonus must elect whether the bonus shall

be awarded on the basis of Section 9.22.040(A)(1)(a), (b), (c), (d), (e), (f), (g), or (h). Density bonuses from more than one category may not be combined.

3. All density calculations resulting in fractional units will be rounded up to the next whole number.

4. For purposes of calculating a density bonus pursuant to subsection B for a shared housing building, "unit" means one shared housing unit and its pro-rated share of associated common area facilities.

5. For purposes of calculating a density bonus pursuant to subsection B, the residential units shall be on contiguous sites that are the subject of one development application, but do not have to be based upon individual subdivision maps or parcels. The density bonus shall be permitted in geographic areas of the housing development other than the areas where the units for the lower income households are located.E.

**Continued Affordability.** Prior to issuance of a building permit, an applicant shall agree to continued affordability of restricted affordable units in accordance with Government Code Section 65915(c) and Section 9.64.130, of Chapter 9.64 Affordable Housing Production Program, and the Administrative Guidelines adopted thereto.

SECTION 5. Santa Monica Municipal Code Section 9.22.060 is hereby amended to read as follows:

**9.22.060 Incentives and Concessions for Affordable Housing**

A. An eligible applicant under Section 9.22.040 may request the following numbers of incentives or concessions in accordance with the procedures set forth in Section 9.22.080:

Minimum Percentage of Affordable Units	Number of Incentives and Concessions Permitted
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<ul style="list-style-type: none"> <li>• 5% Very Low,</li> <li>• 10% Low, or</li> <li>• 10% Moderate in for-sale developments</li> </ul>	1
<ul style="list-style-type: none"> <li>• 10% Very Low,</li> <li>• 17% Low, or</li> <li>• 20% Moderate in for-sale developments</li> </ul>	2
<ul style="list-style-type: none"> <li>• 15% Very Low,</li> <li>• 24% Low, or</li> <li>• 30% Moderate in for-sale developments</li> </ul>	3
<ul style="list-style-type: none"> <li>• 16% Very Low, or</li> <li>• 45% Moderate in for-sale developments</li> </ul>	4
<ul style="list-style-type: none"> <li>• 100% Affordable Housing Projects or projects meeting the criteria of Section 9.22.040(A)(1)(g)</li> </ul>	5

To calculate the number of incentives and concessions for housing development projects consisting of 20 units or more that provide onsite affordable units in accordance with Chapter 9.64, Affordable Housing Production Program, onsite affordable units required by Chapter 9.64 shall be counted as very low-income units.

**B. By-Right Incentives or Concessions.** Without following the procedures in Section 9.22.080, the Director shall approve requested incentives and concessions as follows:

1. For housing developments in residential zones:
  - a. Up to a 15% deviation from one side setback requirement.
  - b. Up to a 10% increase in parcel coverage per floor and/or story (one concession per floor and/or story).
  - c. Up to a 15% deviation from rear setback requirements.
  - d. Up to one additional story and six feet of building height.
2. For housing developments in all non-residential zones:
  - a. Up to an additional 11 feet of Building Height.
  - b. Up to a 10% reduction in Minimum Ground Floor height.

c. Up to a 50% decrease in private outdoor living area per unit, provided that an equivalent amount is substituted for common outdoor living area.

d. Up to a 5% decrease in unit mix requirement for market rate units only.

e. Up to a 10% decrease in residential parking requirement.

f. Up to a 10% decrease in long-term residential bicycle parking.

g. Additional floor area to accommodate the density bonus units based on project's average unit size.

3. In addition to the above, for 100% Affordable Housing Projects or projects meeting the criteria of Section 9.22.040(A)(1)(g) located within one-half mile of a major transit stop or located in a very low vehicle travel area in a designated county:

a. Height increase of up to three additional stories, or 33 feet. This shall not count towards one of the five incentives or concessions available for 100% Affordable Housing Projects or projects meeting the criteria of Section 9.22.040(A)(1)(g).

C. **By Right Parking Incentives.** In addition to the above, an eligible project under Section 9.22.040 shall be entitled to the parking incentives set forth in Government Code Section 65915(p).

D. Nothing in this Section limits or requires the provision of direct financial incentives for a housing development, including the provision of publicly owned land by the City or the waiver of fees or dedication requirements.

SECTION 6. Santa Monica Municipal Code Section 9.22.080 is hereby amended to read as follows:



### **9.22.080 Procedures**

The following procedures shall govern the processing of a request for a density bonus, incentive or concession, waiver or reduction of a development standard, or revised parking standard:

A. An application for a density bonus, incentive or concession, waiver or reduction of a development standard, or revised parking standard pursuant to this Chapter shall be submitted with the first application for approval of a housing development and processed concurrently with all other applications in accordance with applicable State law, including, but not limited to, the Permit Streamlining Act, required for the housing development. The application shall be submitted on a form prescribed by the City and shall include at least the following information:

1. Site plan showing total number of units, number and location of affordable housing units, and number and location of proposed density bonus units;
2. Target income of affordable housing units and proposals for ensuring affordability;
3. Description of any requested incentives or concessions, waivers or reductions of development standards, or modified parking standards.
  - a. For all incentives or concessions that are not included within the menu of incentives or concessions set forth in subsections B and C of Section 9.22.060, the application shall include adequate information for the City to make a determination that the requested incentives and concessions result in identifiable and actual cost reductions.

b. For any requested waiver or reduction of a development standard, the applicant shall provide adequate information for the City to make a determination that that the development standard for which the waiver or reduction is requested will have the effect of physically precluding the construction of the residential project with the density bonus incentives requested.

4. If a density bonus or concession is requested for a land donation, the application shall show the location of the land to be donated provide proof of site control, and provide evidence that all of the requirements and each of the findings included in Government Code Section 65915(g) can be made; and

5. If a density bonus or concession is requested for a childcare facility, the application shall show the location and square footage of the childcare facilities and provide evidence that all of the requirements and each of the findings included in Government Code Section 65915(h) can be made.

B. In accordance with State law, neither the granting of a concession or incentive, or waiver or reduction, nor the granting of a density bonus, shall be interpreted, in and of itself, to require a General Plan amendment, Zoning Ordinance, Variance, or other discretionary approval.

C. For housing developments requesting an incentive or concession not included within the menu of by-right incentives or concessions listed in subsections B and C of Section 9.22.060 or a waiver or reduction pursuant to Section 9.22.070, the following shall apply:

1. The Director shall grant the concession or incentive requested by the applicant unless the Director makes a written finding, based upon substantial evidence, of any of the following:

a. The incentive or concession does not result in identifiable and actual cost reductions to provide for affordable housing costs as defined in Section 50052.5 of the Health and Safety Code, or for rents for the affordable units; or

b. The concession or incentive will have a specific, adverse impact upon public health and safety, or on the physical environment or on any real property that is listed in the California Register of Historic Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact without rendering the development unaffordable to low-income and moderate income households; or

c. The concession or incentive would be contrary to State or Federal law.

2. The Director shall grant the waiver or reduction if the development standard will have the effect of physically precluding the construction of a housing development at the densities permitted under Section 9.22.050, or with the concessions or incentives permitted under Section 9.22.060. Notwithstanding the foregoing, the Director shall not be required to grant a waiver or reduction if:

a. The waiver or reduction would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact;

b. The waiver or reduction would have an adverse impact on real property that is listed in the California Register of Historical Resources;

c. The waiver or reduction would be contrary to State or Federal law.

SECTION 7. Any provision of the Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

SECTION 8. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.


SECTION 9. The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance. The City Clerk shall cause the same to be published once in the official newspaper within 15 days after its adoption. This Ordinance shall become effective 30 days from its adoption.

APPROVED AS TO FORM:

DocuSigned by:  
*DOUGLAS SLOAN*  
61C02D0CAE84432...

Douglas Sloan, City Attorney

Approved and adopted this 14<sup>th</sup> day of May, 2024.

DocuSigned by:  
  
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\_\_\_\_\_  
Phil Brock, Mayor

State of California            )  
County of Los Angeles       ) ss.  
City of Santa Monica         )


I, Nikima S. Newsome, Interim City Clerk of the City of Santa Monica, do hereby certify that the foregoing Ordinance No. 2779 (CCS) had its introduction on April 23, 2024 and was adopted at the Santa Monica City Council meeting held on May 14, 2024, by the following vote:

AYES:       Councilmembers de la Torre, Torosis, Davis, Parra, Zwick,  
              Mayor Pro Tem Negrete, Mayor Brock

NOES:       None

ABSENT:    None

ATTEST:

DocuSigned by:  
  
7032651F371E430...  
\_\_\_\_\_  
Nikima S. Newsome, Interim City Clerk

\_\_\_\_\_  
5/16/2024  
Date

A summary of Ordinance No. 2779 (CCS) was duly published pursuant to California Government Code Section 40806.