

ORDINANCE NO. 1792

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LA HABRA APPROVING ZONE CHANGE 18-03 FOR AMENDMENTS TO TITLE 18 ZONING CHAPTER 18.80 AFFORDABLE HOUSING INCENTIVES AND AMENDMENTS TO CHAPTER 18.12.150 ACCESSORY DWELLING UNITS OF THE CITY OF LA HABRA MUNICIPAL CODE PURSUANT TO THE REQUIREMENTS OF SB 229 AND AB 494, AS PER EXHIBIT "A" AND EXHIBIT "B".

WHEREAS, pursuant to AB 2299, SB 1069, and AB 484, Government Code Section § 65852.2 was amended, and as a result, various provisions of the existing La Habra Municipal Code have become inconsistent with state law and must be updated; and

WHEREAS, Government Code Section § 65852.2 was amended to refer to "accessory dwelling units" rather than "second units" or "secondary dwellings;" and

WHEREAS, the City desires to update its established rules and regulations in compliance with the standards in Government Code Section § 65852.2;

WHEREAS, it is in the best interest of the public to establish and update reasonable standards relating to provision of affordable housing in specified zones in the City;

WHEREAS, Government Code Section 65915 requires the City to grant a density bonus, concessions and incentives, prescribed parking requirements, as well as waivers of development standards upon a developer's request when the developer includes a certain percentage of affordable housing in a housing development project; and

WHEREAS, certain changes in the City's existing density bonus ordinance are necessary to bring the City's code into compliance with State law.

The City Council of the City of La Habra does hereby ordain as follows:

Section 1. The City Council does hereby find and determine that:

- a. City staff has initiated Zone Change 18-03 for amendments to Title 18 Zoning, Chapter 18.80 Affordable Housing Incentives and Chapter 18.12.150 Accessory Dwelling Units for consistency with SB 229 and AB 494.
- b. This project was reviewed pursuant to the guidelines of the California Environmental Quality Act (CEQA) and determined to be Categorical Exempt pursuant to Section 15282(h), "The adoption of an ordinance regarding second units in a single family or multifamily residential zone by a city or county to implement the provisions of Section 65852.1 and 65852.2 of the Government Code as set forth in Section 21080.17 of the Public Resources Code" of the California Environmental Quality Act Guidelines.

- c. This project is exempt from the requirements of the City's National Pollutant Discharge Elimination System (NPDES) since the proposal does not entail any actual construction.
- d. The Planning Commission held a duly noticed public hearing on March 26, 2018 to consider Zone Change 18-03 for amendments to Title 18 Zoning, Chapter 18.80 and Chapter 18.12.150 of the La Habra Municipal Code. The Planning Commission, after considering all the written and oral evidence offered including the staff report and all attachments, recommended that the City Council approve the code amendments.
- e. The City Council held a duly noticed public hearing on April 16, 2018 to consider the request for Zone Change 18-03 for amendments to Title 18 Zoning, Chapter 18.80 and Chapter 18.12.150. The City Council, after considering all the written and oral evidence offered including the staff report and all attachments along with the Planning Commission's recommendation, approves the code amendments.

Section 2. The City Council further finds and determines that:

- a. The proposed amendments comply with California Government Code Section 65915 that requires cities to adopt standards to provide a density bonus and incentives or concessions for residential project that include affordable housing units.
- b. The proposed amendments comply with California Government Code Section 65852.2 that requires cities to establish standards to allow for ministerial accessory dwelling units so as to provide additional rental housing stock as accessory dwelling units as a component of the housing supply in California.

Section 3. Based upon the foregoing, the City Council of the City of La Habra does approve an Ordinance adopting Zone Change 18-03 for amendments to Title 18 Zoning, Chapter 18.80 and Chapter 18.12.150, attached hereto as Exhibit A and Exhibit B.

PASSED, APPROVED AND ADOPTED this 7th day of May, 2018.

Tim Shaw, Mayor

Attest:

Tamara D. Mason, MMC, City Clerk

STATE OF CALIFORNIA)

COUNTY OF ORANGE) SS.
CITY OF LA HABRA)

I, Tamara D. Mason, City Clerk of the City of La Habra, do hereby certify that the above and foregoing is a true and correct copy of Ordinance No. 1792 introduced at a regular meeting of the City Council of the City of La Habra held on the 16th day of April 2018, and was thereafter adopted at a regular meeting held on the 7th of May, 2018, by the following vote:

AYES: COUNCILMEMBERS: Gomez, Blazey, Beamish, Espinoza, Shaw
NOES: COUNCILMEMBERS: None
ABSENT: COUNCILMEMBERS: None
ABSTAIN: COUNCILMEMBERS: None

Said ordinance has been published or posted pursuant to law.

Witness my hand and the official seal of the City of La Habra this 7th day of May, 2018.

Tamara D. Mason, MMC, City Clerk

Exhibit A

Chapter 18.80 Affordable Housing Incentives

- 18.80.010 Purpose of affordable housing incentives.
- 18.80.020 Definitions.
- 18.80.030 Application requirements.
- 18.80.040 Appeal process.
- 18.80.050 Density bonus requirements, calculations and location.
- 18.80.060 Concessions, incentives and standards.
- 18.80.070 Parking standards.
- 18.80.080 Donation of land.
- 18.80.090 Provision of childcare facilities.
- 18.80.100 Continued affordability.
- 18.80.110 Development bonus, mixed- use projects.

18.80.010 Purpose of affordable housing incentives.

When an applicant seeks a density bonus for a housing development within the City or donates land that meets the requirements of this chapter, upon request of the applicant, the City shall provide a density bonus and incentives or concessions for the production of housing units and childcare facilities, as prescribed in this chapter. The purpose of this chapter is to increase the housing supply and availability in the City and satisfy the requirements of Government Code Section 65915, et seq., as amended (the "Density Bonus Law").

18.80.020 Definitions.

For the purpose of this chapter, the following definitions shall apply:

"Affordable housing agreement" means an agreement between the applicant and the City guaranteeing the affordability of rental or ownership units in accordance with the provisions of this chapter.

"Affordable housing costs" means the amount set forth in the Health and Safety Code Sections 50052.5 and 50053, as the same may be amended from time to time.

"Approving body" means the Planning Commission, City Council, or housing authority board approving the housing development of which the density bonus request is a part. Where there is an appeal, the "Approving body" shall mean the City Council.

"Childcare facility" means a child day care facility other than a family day care home, including, but not limited to, infant centers, preschools, extended day care facilities, and school-age childcare centers.

"Common interest development" means a condominium project as defined by Section 1351(f) of the Civil Code, or a planned development as defined by Section 1351(k) of the Civil Code, as the same may be amended from time to time.

“Concession(s)” or “incentives(s)” means:

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 Section 18.80.100.
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 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 Section 18.80.100.

“Density Bonus” means a density increase over the otherwise maximum allowable gross residential density as of the date of application by the applicant to the City, or if elected by the applicant, a lesser percentage of density increase, including, but not limited to, no increase in density. The amount of density increase to which the applicant is entitled shall vary according to the amount by which the percentage of affordable housing units exceeds the percentage established in Section 18.80.050.

“Development standard” means and includes site or construction condition, including but not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open-space 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.

“Housing development” means a development project for five or more residential units, including mixed-use developments. “Housing development” also includes a subdivision or common interest development, as defined in Section 4100 of the Civil Code, approved by a City, County or City and County 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 subdivision (d) of Section 65863.4 of the Government Code, where the result of the rehabilitation would be a net increase in available residential units. For the purpose of calculating a density bonus, 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.

“Lower income households” means households defined in Section 50079.5 of the Health and Safety Code, as the same may be amended from time to time.

“Maximum allowable residential density” means the density allowed under the zoning ordinance and land use element of the general plan, or, if a range of density is permitted, means the maximum allowable density for the specific zoning range and land use element of the general plan applicable to the project. Where the density allowed under the zoning ordinance is inconsistent with the density allowed under the land use element of the general plan, the general plan density shall prevail.

“Persons and families of moderate income” means persons and families defined in Section 50093 of the Health and Safety Code, as the same may be amended from time to time.

“Senior citizen housing development” means a project as defined by Sections 51.3 and 51.12 of the Civil Code, as the same may be amended from time to time.

“Study” does not include reasonable documentation to establish eligibility for the concession or incentive or to demonstrate that the incentive or concession meets the definition of “Concession(s)” or “incentives(s)” set forth herein.

“Very low income households” means households defined in Section 50105 of the Health and Safety Code, as same may be amended from time to time.

18.80.030 Application requirements.

- A. A conditional use permit is required for any project in which agreement with the City is entered pursuant to the Density Bonus Law (Government Code Section 65915 et seq.) The permit shall be obtained prior to the effective date of such agreement.
- B. A development plan submittal in accordance with usual development application requirements is required which shall contain the following:
 1. Location of dwelling units within the project intended for

affordable housing.

2. Total number of rental dwelling units and for-sale dwelling units within the project.
3. Proposed rent scheduled and/or sale prices.

18.80.040 Appeal process.

- A. Any appeal relating to density bonuses, incentives, concessions, or waivers/modifications of development standards shall be handled in a manner established in La Habra Municipal Code Section 18.66.080.

18.80.050 Density bonus requirements, calculations and location.

- A. **Density Bonus Development Requirements.** Upon written request of an applicant, the approving body for a housing development shall grant one density bonus as specified under 18.80.050.B and if requested by the applicant and consistent with the applicable requirements of this chapter, incentives or concessions, pursuant to 18.80.060, waivers or reductions of development standards, and parking ratios, as described in section 18.80.070 when the applicant for a housing development seeks and agrees to construct a housing development, excluding any units permitted by the density bonus awarded pursuant to this chapter, that will contain at least any one of the following:
 1. Ten percent of the total units of a housing development for lower income households, as defined in Section 50079.5 of the Health and Safety Code.
 2. Five percent of the total units of a housing development for very low-income households, as defined in Section 50105 of the Health and Safety Code.
 3. A senior citizen housing development, as defined in Section 51.3 and 51.12 of the Civil Code, or a mobile home park that limits residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the Civil Code.
 4. Ten percent of the total dwelling units in a common interest development, as defined in Section 4100 of the Civil Code, for persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code, provided that all units in the development are offered to the public for purchase.
 5. Ten percent of the total units of a housing development for transitional foster youth, as defined in Section 66025.9 of the Education Code, disabled veterans, as defined in Government Code Section 18541, or homeless persons, as defined in the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11301

et seq.). The units described in this paragraph shall be subject to a recorded affordability restriction of 55 years and shall be provided at the same affordability level as very low-income units.

6. For the purposes of this section, “total units” or “total dwelling units” does not include units added by a density bonus awarded pursuant to this section or any local law granting a greater density bonus.
- B. The amount of density bonus authorized under Section 18.80.050.A shall be calculated pursuant to Section 18.80.050.C. An applicant who requests a density bonus pursuant to this section shall elect whether the bonus shall be awarded on the basis of Section 18.80.050.A.1, 18.80.050.A.2, 18.80.050.A.3, 18.80.050.A.4 or 18.80.050.A.5.
- 1, For housing developments meeting the criteria in Section 18.80.050.A.1, 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
17	30.5
18	32
19	33.5
20	35

2. For housing developments meeting the criteria in Section 18.80.050.A.2, 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

3. For housing developments meeting the criteria of Section 18.80.050.A.3, the density bonus shall be 20 percent of the number of senior housing units.
4. For housing developments meeting the criteria of Section 18.80.050.A.5, the density bonus shall be 20 percent of the number of the type of units giving rise to a density bonus under that

subsection.

5. For housing developments meeting the criteria of Section 18.80.050.A.4, 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
29	24
30	25
31	26
32	27
33	28
34	29
35	30
36	31
37	32
38	33
39	34
40	35

- C. Density Calculation. All density calculations resulting in fractional units shall be rounded up to the next whole number.
- D. Total Density Bonus Limit. In no event shall the total density bonus awarded pursuant to this chapter exceed thirty-five percent.
- E. Location of Density Bonus Units. The density bonus units shall be permitted in geographic areas of the housing development other than the areas where the units for the lower income households are located.

- F. Design Requirements. Affordable units developed in conjunction with a market rate development shall be of similar design and quality as the market rate units. Exterior and floor plans of affordable units shall be similar to the market rate units; interior finishes need not be the same.
- G. Location Distribution Requirements for Affordable Units. Affordable units shall be dispersed throughout the housing development rather than clustered in a single area or a few areas. Location of affordable units with a housing development shall be approved by the approving body.
- H. Except as provided in Section 18.80.060, the granting of a density bonus shall not require or be interpreted to require the waiver of a local ordinance or provisions of a local ordinance unrelated to development standards.
- I. Nothing prohibits the City from granting a density bonus greater than what is described in this section for a development that meets the requirements of this section or from granting a proportionately lower density bonus than what is required by this section for developments that do not meet the requirements of this section.

18.80.060 Concessions or incentives.

- A. Evidence for Concession and Incentives. An applicant for a density bonus pursuant to Section 18.80.050 may submit to the community development department a proposal for the specific incentives or concessions that the applicant requests pursuant to this chapter and may request a meeting with the director of community and economic development or his/her designee to discuss the proposal. However, the approving body shall grant the concession or incentive requested by the applicant pursuant to subsection B unless the City Council makes a written finding, based upon substantial evidence, of any of the following:
 - 1. The concession or incentive does not result in identifiable and actual cost reductions, consistent with the definition of “Concession(s)” or “incentives(s)” in Section 18.80.020, 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 Section 18.80.100.
 - 2. The concession or incentive would have a specific adverse impact, as defined in Government Code Section 65589.5(d)(2), as the same may be amended from time to time, upon the 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 low income and moderate income households.

3. The concession or incentive would be contrary to state or federal law.
- B. Number of Incentives or Concessions. The applicant shall receive the following number of incentives or concessions as provided in Table 18.80.060.B

Table 18.80.060.B
Additional Density Bonus Concessions or Incentives

Household Income of Units	Percent of Units	Concessions or Incentives
Very Low Income	5 %	1
	10 %	2
	15 %	3
Lower Income	10 %	1
	20 %	2
	30 %	3
Moderate Income Units in common interest development	10 %	1
	20 %	2
	30 %	3

- C. Nothing in this chapter shall be interpreted to require the City to grant an incentive or concession that has a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5 of the Government Code, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Nothing in this chapter shall be interpreted to require the City to grant an incentive or concession that would have an adverse impact on any real property that is listed in the California Register of Historical Resources.
- D. In no case may the City apply any development standard that will have the effect of physically precluding the construction of a development meeting the criteria of this Section 18.80.050 at the densities or with the concessions or incentives permitted by this chapter.
- E. Waiver of Development Standards. An applicant may submit to the community development department a proposal for the waiver or reduction of development standards that will have the effect of physically precluding the construction of a development meeting the criteria of Section 18.80.050 at the densities or with the concessions or incentives permitted under this chapter. The waiver or reduction of development standards must comply with the following conditions and requirements:
1. Nothing in this section shall be interpreted to require the City to waive or reduce development standards if the waiver or reduction would have a

specific, adverse impact, as defined in Government Code Section 65589.5(d)(2), as the same may be amended from time to time, upon the health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact.

2. Nothing in this section shall be interpreted to require the City to waive or reduce development standards that would have an adverse impact on any real property that is listed in the California Register of Historical Resources or to grant any waiver or reduction that would be contrary to state or federal law.
3. A proposal for the waiver or reduction of development standards pursuant to this section shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to this section.
4. The applicant shall show by substantial evidence that the waiver or modification is necessary to make the housing units economically feasible.
5. Any discretionary actions for modification or waiver shall be processed in conjunction with the housing development application. However, regardless of whether the housing development application required a public hearing, such a hearing shall be held before the Planning Commission if a discretionary action is required.

18.80.070 Parking standards.

- A. Maximum Parking Requirements for Density Bonus Units. Except as provided in Section 18.80.070.B and Section 18.80.070.C, upon request of the applicant, the City shall not require a vehicular parking ratio, inclusive of accessible and guest parking, to the entire housing development that meets the criteria of Section 18.80.050 and 18.80.100 that exceeds the following ratios:
 1. Zero to one bedroom: One on-site parking space.
 2. Two to three bedrooms: Two on-site parking spaces.
 3. Four and more bedrooms: Two and one-half parking spaces.
- B. Notwithstanding Section 18.80.070.A, if a development includes the maximum percentage of low-income or very low income units provided for in Section 18.80.050.B.1 and 18.80.050.B.2, and is located within one-half mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code, and there is unobstructed access to the major transit stop from the development, then, upon the request of the developer,

the City shall not impose a vehicular parking ratio, inclusive of accessible and guest parking, that exceeds 0.5 spaces per bedroom. For purposes of this section, a development shall have unobstructed access to a major transit stop if a resident is able to access the major transit stop without encountering natural or constructed impediments.

- C. Notwithstanding Section 18.80.070.A, if a development consists solely of rental units, exclusive of a manager's unit or units, with an affordable housing cost to lower income families, as provided in Section 50052.5 of the Health and Safety Code, then, upon the request of the developer, the City shall not impose a vehicular parking ratio, inclusive of accessible and guest parking, that exceeds the following ratios:
 - 1. If the development is located within one-half mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code, and there is unobstructed access to the major transit stop from the development, the ratio shall not exceed 0.5 spaces per unit.
 - 2. If the development is a for-rent housing development for individuals who are 62 years of age or older that complies with Sections 51.2 and 51.3 of the Civil Code, the ratio shall not exceed 0.5 spaces per unit. The development shall have either paratransit service or unobstructed access, within a one-half mile, to fixed bus route service that operates at least eight times per day.
 - 3. If the development is a special needs housing development, as defined in Section 51312 of the Health and Safety Code, the ratio shall not exceed 0.3 spaces per unit. The development shall have either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.
- D. Parking Calculations. If the total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number.
- E. Allowed Parking Types. For the purpose of this section, a development may provide onsite parking through tandem parking or uncovered parking, but not through on-street parking.
- F. This section shall apply to a development that meets the requirements of Sections 18.80.050 and 18.80.100, but only at the request of the applicant. An applicant may request parking incentives or concessions beyond those provided in this section, pursuant to section 18.80.060.
- G. This section does not preclude the City from reducing or eliminating a parking requirement for development projects of any type in any location.
- H. Notwithstanding Section 18.80.070.B and Section 18.80.070.C, if the City or

an independent consultant has conducted an area wide or jurisdiction wide parking study in the last seven years, then the City may impose a higher vehicular parking ratio not to exceed the ratio described in section 18.80.070.A, based upon substantial evidence found in the parking study, that includes, but is not limited to, an analysis of parking availability, differing levels of transit access, walkability access to transit services, the potential for shared parking, the effect of parking requirements on the cost of market-rate and subsidized developments, and the lower rates of car ownership for low-income and very low income individuals, including seniors and special needs individuals. The City shall pay the costs of any new study. The City shall make findings, based on a parking study completed in conformity with this paragraph, supporting the need for the higher parking ratio.

- I. A request pursuant to this section shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to Section 18.80.060.

18.80.080 Donation of Land.

- A. Density Bonus with Land Donation. When an applicant for a tentative subdivision map, parcel map, or other residential development approval donates land to the City that meets the requirements of this section, the applicant shall be entitled to a fifteen percent increase above the otherwise maximum allowable residential density for the entire development as follows:

Percentage Very Low Income	Percentage Density Bonus
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

- B. Requirements for Donated Land. This increase shall be in addition to any

increase in density mandated by Section 18.80.050, up to a maximum combined mandated density increase of 35 percent if an applicant seeks an increase pursuant to both this section and section 18.80.050.

C. Additional Density Bonus. Nothing in this section shall be construed to enlarge or diminish the authority of a City to require a developer to donate land as a condition of development. An applicant shall be eligible for the increased density bonus described herein if all the following conditions are met:

1. The applicant donates and transfers the land no later than the date of approval of the final subdivision map, parcel map, or residential development application to the City or to a housing developer approved by the City.
2. The developable acreage and zoning classification of the land being transferred are sufficient to permit construction of units affordable to very low-income households in the amount not less than 10 percent of the number of residential units of the proposed development.
3. The transferred land is at least one acre in size or of sufficient size to permit development of at least forty units, has the appropriate general plan designation, is appropriately zoned with appropriate development standards for development at the density described in paragraph (3) of subdivision (c) of Section 65583.2 of the Government Code, and is or will be served by adequate public facilities and infrastructure.
4. The transferred land shall have all of the permits and approvals, other than building permits, necessary for the development of the very low income housing units on the transferred land, not later than the date of approval of the final subdivision map, parcel map, or residential development application, except that the local government may subject the proposed development to subsequent design review to the extent authorized by subdivision (i) of Section 65583.2 of the Government Code, if the design is not reviewed by the local government prior to the time of transfer.
5. The transferred land and the affordable units shall be subject to a deed restriction ensuring continued affordability of the units consistent with paragraphs (1) and (2) of Section 18.80.100, which shall be recorded on the property at the time of transfer.
6. The land is transferred to the City or to a housing developer approved by the City. The City may require the applicant to identify and transfer the land to the developer.
7. The transferred land shall be within the boundary of the proposed development or, if the local agency agrees, within one-quarter mile of the boundary of the proposed development.
8. A proposed source of funding for the very low income units shall be

identified no later than the date of approval of the final subdivision map, parcel map, or residential development application.

18.80.090 Provision of childcare facilities.

- A. When an applicant proposes to construct a housing development that conforms to the requirements of Section 18.80.050 and includes a child care facility, as that term is defined in Government Code Section 65915(h)(4), that will be located on the premises of, as part of, or adjacent to, the project, the City shall grant either of the following:
 - 1. An additional density bonus that is an amount of square feet of residential space that is equal to or greater than the amount of square feet in the childcare facility.
 - 2. An additional concession or incentive that contributes significantly to the economic feasibility of the construction of the childcare facility.
- B. The City shall require, as a condition of approving the housing development, that the following occur:
 - 1. The childcare facility shall remain in operation for a period of time that is as long or longer than the period of time during which the density bonus units are required to remain affordable pursuant to Section 18.80.100.
 - 2. Of the children who attend the child care facility, the children of very low income households, lower income households, or families of moderate income shall equal a percentage that is equal to a greater than the percentage of dwelling units that are required for very low income households, lower income households, or families of moderate income pursuant to Section 18.80.050.
- C. Notwithstanding any requirement of this chapter, the City reserves the right to deny a requested density bonus or concession for a childcare facility if it finds, based upon substantial evidence, that the community has adequate childcare facilities.

18.80.100 Continued affordability.

- A. An applicant shall agree to, and the City shall ensure, the continued affordability of all very low and low-income rental units that qualified the applicant for the award of the density bonus for 55 years or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program. Rents for the lower income density bonus units shall be set at an affordable rent as defined in Section 50053 of the Health and Safety Code.
- B. An applicant shall agree to, and the City shall ensure that, the initial occupant of all for-sale units that qualified the applicant for the award of the density bonus are persons and families of very low, low, or moderate income, as required, and that the units are offered at an affordable housing

cost, as the cost is defined in Section 50052.5 of the Health and Safety Code. The City shall enforce an equity sharing agreement, unless it is in conflict with the requirements of another public funding source or law. The following apply to the equity sharing agreement:

1. Upon resale, the seller of the units shall retain the value of any improvements, the down payment, and the seller's proportionate share of appreciation. The City shall recapture any initial subsidy, as defined in section 18.80.100.B.2, and its proportionate share of appreciation, as defined in section 18.80.100.B.3, which amount shall be used within five years for any of the purposes described in subdivision (e) of Section 33334.2 of the Health and Safety Code that promote home ownership.
 2. For the purposes of this section, the City's initial subsidy shall be equal to the fair market value of the home at the time of initial sale minus the initial sale price to the moderate-income household, plus the amount of any down payment assistance or mortgage assistance. If upon resale the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value.
 3. For the purposes of this section, the City's proportionate share of appreciation shall be equal to the ratio of the City's initial subsidy to the fair market value of the home at the time of initial sale.
- C. An applicant shall be ineligible for a density bonus or any other incentives or concessions under this section if the housing development is proposed on any property that includes a parcel or parcels on which rental dwelling units are or, if the dwelling units have been vacated or demolished in the five-year period preceding the application, have been subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of lower or very low income; subject to any other form of rent or price control through a public entity's valid exercise of its police power; or 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 paragraph, contains affordable units at the percentages set forth in Section 18.80.050.
 2. Each unit in the development, exclusive of a manager's unit or units, is affordable to, and occupied by, either a lower or low-income household.
- D. For the purpose of this paragraph, "replace" shall mean either of the following:
1. If any dwelling units described in Section 18.80.100.C, 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 refutably 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 Section 18.80.100.C, 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 as the last household in occupancy. If the income category of the last household in occupancy is not known, it shall be refutably 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, 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 replaced shall be subject to section 18.80.100.B.

2. If all dwelling units described in Section 18.80.100.C, have been vacated or demolished within the five-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 five-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 refutably 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 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 replaced shall be subject to Section 18.80.100.B.
- E. Notwithstanding Section 18.80.100.D, for any dwelling unit described in Section 18.80.100.C, that is or was, within the five-year period preceding the application, subject to a form of rent or price control through a local government's valid exercise of its police power and that is or was occupied

by persons or families above lower income, the City may do either of the following:

1. Require that the replacement units 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 replaced shall be subject to Section 18.80.100.B.
 2. Require that the units be replaced in compliance with the jurisdiction's rent or price control ordinance, provided that each unit described in Section 18.80.100.C, is replaced. Unless otherwise required by the jurisdiction's rent or price control ordinance, these units shall not be subject to a recorded affordability restriction.
- F. For the 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.
- G. Affordable Housing Agreement. Affordability shall be ensured by requiring that the applicant enter into an affordable housing agreement in accordance with this chapter and in form and substance acceptable to the City, which agreement shall be approved by the City attorney, recorded, and run with the land.

18.80.110 Development bonus, mixed- use projects

- A. When an applicant for approval of a commercial development has entered into an agreement for partnered housing described in Section 18.80.110.C to contribute affordable housing through a joint project or two separate projects encompassing affordable housing, the City shall grant to the commercial developer a development bonus as prescribed in Section 18.80.110.B. Housing shall be constructed on the site of the commercial development or on a site that is all of the following:
1. Within the boundaries of the City.
 2. In close proximity to public amenities including schools and employment centers.
 3. Located within one-half mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code.
- B. The development bonus granted to the commercial developer shall mean incentives, mutually agreed upon by the developer and the City, that may include, but are not limited to, any of the following:
1. Up to a 20-percent increase in maximum allowable intensity in the general plan.

2. Up to a 20-percent increase in maximum allowable floor area ratio.
 3. Up to a 20-percent increase in maximum height requirements.
 4. Up to a 20-percent reduction in minimum parking requirements.
 5. Use of a limited-use/limited-application elevator for upper floor accessibility.
 6. An exception to a zoning ordinance or other land use regulation.
- C. For the purposes of this section, the agreement for partnered housing shall be between the commercial developer and the housing developer, shall identify how the commercial developer will contribute affordable housing, and shall be approved by the City.
- D. For the purposes of this section, affordable housing may be contributed by the commercial developer in one of the following manners:
1. The commercial developer may directly build the units.
 2. The commercial developer may donate a portion of the site or property elsewhere to the affordable housing developer for use as a site for affordable housing.
 3. The commercial developer may make a cash payment to the affordable housing developer that shall be used towards the costs of constructing the affordable housing project.
- E. For the purposes of this section, subparagraph (A) of paragraph (3) of subdivision (c) of Section 65915 of the Government Code shall apply.
- F. Nothing in this section shall preclude any additional allowances or incentives offered to developers by local governments pursuant to law or regulation.
- G. If the developer of the affordable units does not commence with construction of those units in accordance with timelines ascribed by the agreement described in Section 18.80.110.C, the City may withhold certificates of occupancy for the commercial development under construction until the developer has completed construction of the affordable units.
- H. In order to qualify for a development bonus under this section, a commercial developer shall partner with a housing developer that provides at least 30 percent of the total units for low-income households or at least 15 percent of the total units for very low-income households.
- I. Nothing in this section shall preclude an affordable housing developer from seeking a density bonus, concessions or incentives, waivers or reductions of development standards, or parking ratios under Section 65915 of the

Government Code.

- J. A development bonus pursuant to this section shall not include a reduction or waiver of the requirements within an ordinance that requires the payment of a fee by a commercial developer for the promotion or provision of affordable housing.
- K. The City shall submit to the Department of Housing and Community Development, as part of the annual report required by Section 65400 of the Government Code, information describing a commercial development bonus approved pursuant to this section, including the terms of the agreements between the commercial developer and the affordable housing developer, and the developers and the local jurisdiction, and the number of affordable units constructed as part of the agreements.
- L. For purposes of this section, “partner” shall mean formation of a partnership, limited liability company, corporation, or other entity recognized by the state in which the commercial development applicant and the affordable housing developer are each partners, members, shareholders or other participants, or a contract or agreement between a commercial development applicant and affordable housing developer for the development of both the commercial and the affordable housing properties.
- M. This section (18.80.110) shall remain in effect only until January 1, 2022, and as of that date is repealed.

18.12.150 Accessory Dwelling Units

- A. Permitting Procedures. Any application for an accessory dwelling unit that meets the location and development standards contained in this section shall be approved ministerially without discretionary review or a public hearing.
- B. Accessory dwelling units shall be reviewed as part of the established Building Permit plan check process. Exception: Planning fees shall be waived, for the accessory unit, if a covenant in a form acceptable to the City Attorney is recorded on the property requiring the accessory unit to be occupied exclusively for persons that qualify as very low income. Very low income is defined as fifty percent or below of average medium income, for Orange County, adjusted for family size.
- C. Location. One accessory dwelling unit may be located on any residentially zoned lot that allows single-family dwellings or multifamily uses, upon which not less than, nor more than, one single-family dwelling exists or is proposed. No ministerial accessory dwelling unit shall be permitted on a property already containing multiple dwellings.
- D. Density. For the purposes of this section, accessory dwelling units are not considered for the purposes of evaluating the density requirements established in the general plan.
- E. Submittal requirements. For the purpose of this section, applications for accessory dwelling units shall conform to the requirements for and obtain a building permit as determined by the city building official. In addition, the application shall include the following documents, which shall be reviewed and approved by the director of community development or his or her designee.
 - 1. Plot Plan (drawn to scale). Dimension the perimeter of the parcel on which the accessory dwelling unit will be located. Indicate the location and dimensioned setbacks, and dimensions of all existing and proposed structures on the site. Provide dimensions of all easements, right of way(s), building envelopes, parking and paved areas.
 - 2. Floor Plans. Complete floor plans of both existing and proposed conditions shall be provided. Each room shall be dimensioned and resulting floor area calculation included. The use of each room shall be labeled. The size and location of all doors, closets, walls and cooking facilities shall be clearly depicted.
 - 3. Elevations. North, south, east, and west elevations that show all exterior structure dimensions, all architectural projections, and all openings for both the existing residence and the proposed accessory dwelling unit.

- F. Occupancy. Accessory dwelling units may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence.
- G. Units attached to a detached accessory building. When an accessory dwelling unit is constructed onto or above a detached accessory building, such building shall conform to the setback standards established for the primary dwelling. No setback shall be required for an existing garage that is converted to an accessory dwelling unit. A setback of no more than five feet from the side and rear lot lines shall be required for an accessory dwelling unit that is constructed above a garage. Pursuant to LHMC 18.14.060 the property is required to provide and maintain a two-car garage for the primary residence.
- H. Number Per Lot. A maximum of one accessory dwelling unit shall be permitted on any single-family or multiple family zoned lot where one and only one single-family residence exists on the property.
- I. Development Standards. All accessory dwelling units shall meet all of the following development standards:
 - 1. Unit Size. The increased floor area of an attached accessory dwelling unit shall not exceed 50 percent of the proposed or existing primary dwelling living area, or 1,200 square feet. The total floor area for a detached accessory dwelling unit shall not exceed 1,200 square feet.
 - 2. Setbacks. The minimum required distance between a detached secondary dwelling unit and the primary dwelling unit, and all other structures, including garages, on the property, shall be ten feet. No setback shall be required for an existing garage that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than five feet from the side and rear lot lines shall be required for an accessory dwelling unit that is constructed above a garage.
 - 3. Height. An accessory dwelling unit shall be permitted only if it complies with all height restrictions applicable to the zone.
 - 4. Useable Open Space. An accessory dwelling unit shall be permitted if the subject lot maintains a minimum of one thousand square feet of usable open space. Such open space shall meet the requirements of Section 18.12.060 of this title.
 - 5. Off-street Parking. An accessory dwelling unit shall provide one off-street parking space, unless there are no bedrooms, in which case no parking space is required for the accessory dwelling unit. The parking space may be covered or uncovered and shall meet all parking space location, dimension, and surfacing requirements of this title. The space may be provided as tandem parking on an existing driveway, but may not block more than one parking space. Parking for an accessory dwelling unit shall not be required in any of the following

instances:

- a. The accessory dwelling unit is located within one-half mile of public transit.
 - b. The accessory dwelling unit is located within an architecturally and historically significant historic district.
 - c. The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.
 - d. When on-street parking permits are required but not offered to the occupants of the accessory dwelling unit.
 - e. When there is a car share vehicle located within one block of the accessory dwelling unit.
6. Architectural Compatibility. An accessory dwelling unit shall be compatible in design to the primary dwelling on the site in regards to exterior finish materials, roof pitch and architectural design.
 7. Accessory dwelling units within planned unit development zones are not subject to the approval process established within the PUD zone. An accessory dwelling unit that complies with the development standards of this section shall be approved ministerially.
 8. One or more of the development standards identified above can be modified or waived by the Director of Community and Economic Development or his or her designee ("Director") if (i) a covenant is recorded on the property requiring the accessory dwelling unit to be occupied by persons that qualify as low income as identified in the City of La Habra Housing Element and approved by the Director when such modification or waiver is in the determination of the Director necessary to provide low income housing and (ii) the Director determines that the value of the incentive offered does not exceed the value to the public of the recorded covenant.
- J. Deed Restriction. Before obtaining a permit for an accessory dwelling unit, the property owner shall file with the county recorder a declaration or agreement of restrictions, which has been approved by the city attorney as to its form and content, describing restrictions that allows for and the continued use of the accessory dwelling as follows: (1) the accessory dwelling unit shall not be sold separately from the primary residence; (2) the accessory second unit is restricted to the maximum size allowed per the development standards set forth in this section; (3) the accessory dwelling unit shall be considered legal only as long as either the primary residence or the accessory dwelling unit is occupied by the owner of record of the property; and (4) the restrictions shall be binding upon any successor in ownership of the property, and lack of compliance shall result in legal action

against the property owner for noncompliance with the requirements for an accessory dwelling unit.