

ORDINANCE NO. 1817

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDENA, CALIFORNIA, AMENDING CHAPTER 18.43 OF THE GARDENA MUNICIPAL CODE RELATING TO DENSITY BONUS PROVISIONS

WHEREAS, during the past two legislative sessions the legislature has enacted changes to the density bonus law; and

WHEREAS, the City is required to incorporate the changes in State law into its Density Bonus provisions; and

WHEREAS, on March 3, 2020, the Planning Commission of the City of Gardena held a duly, noticed public hearing on this Ordinance at which time it considered all evidence presented both oral and written; and

WHEREAS, after the close of the public hearing the Planning Commission recommended that the City Council adopt this Ordinance; and

WHEREAS, on May 12, 2020, the City Council of the City of Gardena held a duly, noticed public hearing on this Ordinance at which time it considered all evidence presented both oral and written;

NOW, THEREFORE, THE CITY OF GARDENA, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Chapter 18.43 of the Gardena Municipal Code is hereby amended as follows. Any sections not amended continue to remain in full force and effect.

18.43.020 Definitions.

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

“Adverse impact” shall be as defined in Government Code Section [65589.5](#).

“Affordable housing agreement” shall mean an agreement between the city and the applicant guaranteeing the affordability of the rental or ownership affordable units in accordance with this chapter and Government Code Section [65915](#).

“Affordable housing costs” shall be as defined in Health and Safety Code Section [50052.5](#).

“Affordable rent” shall be as defined in Health and Safety Code Section [50053](#).

“Child care facility” shall mean 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 child care centers.

“Common interest development” shall be as defined in Civil Code Section [4100](#).

“Density bonus” shall mean a density increase over the otherwise maximum allowable gross residential density under the applicable zoning code provisions and land use element as of the date of the application by the applicant to the city, or, if elected by the applicant, a lesser percentage of density increase.

“Development standard” shall mean a site or construction condition that applies to a residential development pursuant to any ordinance, general plan element, specific plan, or other city condition, law, policy, resolution, or regulation. This includes, but is not limited to: height limitation; setback requirement; floor area ratio; on-site open space requirement; or parking ratio that applies to a residential development.

“Director” shall mean the general services director or the director’s designee.

“Disabled veteran” shall be as defined in Government Code Section [18541](#).

“Homeless person” shall be as defined in the federal McKinney-Vento Homeless Assistance Act, [42](#) U.S.C. Section [11301](#) et seq.

“Housing development” shall mean a development project for five or more residential units, including mixed use developments, and includes, but is not limited to: a subdivision or common interest development 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.

“Incentive or concession” or “incentive/concession” shall mean 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 Commission as provided in Health and Safety Code Section [18901](#) et seq. This includes, but is not limited to, a reduction in setback and square footage requirements and a reduction in the ratio of vehicular parking spaces that would otherwise be required that result in identifiable and actual cost reductions, to provide for affordable housing costs or for affordable rents for the targeted units.
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 or affordable rents for the targeted units.

“Lower income households” shall be as defined in Health and Safety Code Section [50079.5](#).

“Major transit stop” shall be as defined in Public Resources Code Section [21155](#).

“Maximum allowable residential density” shall mean 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. In case of inconsistency, the density allowed under the general plan shall prevail.

“Moderate income households” shall be as defined in Health and Safety Code Section [50093](#).

“One Hundred Percent Affordable Housing” or “100% Affordable Housing” shall mean that one hundred percent of the total units, exclusive of any manager’s unit(s) are for lower income households, except that up to twenty percent of the total units may be for moderate-income households.

“Persons or families of low or moderate income” shall be as defined in Health and Safety Code Section [50093](#).

“Persons or families of moderate income” shall be as defined in Health and Safety Code Section [50093](#).

“Senior citizen housing development” shall be as defined in Sections [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 Civil Code Section [798.76](#) or [799.5](#).

“Specific adverse impact” shall mean a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete; inconsistency with the zoning ordinance or general plan land use designation does not meet this definition.

“Total units,” “total dwelling units,” or total rental beds” does not include units added by a density bonus awarded pursuant to this Chapter.

“Transitional foster youth” shall be as defined in Education Code Section [66025.9](#).

“Unobstructed access to a major transit stop” means that a resident is able to access such stop without encountering natural or constructed impediments.

“Very low income households” shall be as defined in Health and Safety Code Section [50105](#).

18.43.030 General provisions.

A. The city shall grant one density bonus as specified in this chapter, and, if requested by the applicant and consistent with the applicable requirements of this chapter and state law, incentives or concessions, waivers or modifications of development standards and parking ratios, when an applicant 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 for lower income households;
2. Five percent of the total units for very low income households;
3. A senior citizen housing development;
4. Ten percent of the total dwelling units in a common interest development for persons and families of moderate income; provided, that all units in the housing development are offered to the public for purchase; or
5. Ten percent of the total units of a housing development for transitional foster youth, disabled veterans, or homeless persons, when such units are subject to a recorded affordability restriction of fifty-five years and are provided at the same affordability level as very low income units.
6. Twenty percent of the total units for lower income students in a student housing development in accordance with Government Code Section 65915(b)(1)(F).
7. One Hundred Percent Affordable Housing.

B. The request for a density bonus and proposals for incentives or concessions, or waivers or modifications of development standards and parking ratios, including relaxed development standards, shall be made in writing at the time of filing the housing development application and shall be processed in conjunction with the underlying application. The request shall identify the specific density bonus, incentives or concessions requested, and any development standards, including parking ratios, to be waived or reduced. Approval of this request shall be processed in conjunction with and pursuant to the same procedure as the underlying applications.

1. If the request includes a waiver or modification of development standards beyond the incentives or concessions required to be provided by the city by Section [18.43.050](#), the applicant shall include reasonable documentation to demonstrate that the incentive/concession meets the definition set forth above.

2. The request shall be accompanied by a fee in an amount set by resolution of the city council.

C. The density bonus units shall not be included in determining the percentage of units for subsection A of this section.

D. The granting of a density bonus, or incentive/concession as provided for in this chapter, shall not be interpreted, in and of itself, to require a general plan amendment, zone change, study, or other discretionary approval.

E. Nothing herein prevents the city from granting a greater density bonus and additional incentives/concessions or waivers/modifications than that provided for herein, or from providing a lesser density bonus and fewer incentives/concessions and waivers/modifications than that provided for herein, when the housing development does not meet the minimum thresholds.

F. If the applicant requests a meeting, including a preapplication meeting, with the city to discuss the proposal, the director shall meet with the applicant within twenty-one working days. The meeting shall be for informational purposes only and the proposal shall still be acted upon in conjunction with the underlying housing development application.

G. When multiple projects are being considered together for a density bonus, the projects shall be submitted as one application.

H. An applicant shall not be eligible for a density bonus or any other incentive/concession under this chapter if the housing development is on property which was subject to a rent restriction as specified in Government Code Section [65915\(c\)\(3\)](#) unless the proposed housing development replaces those units as specified therein.

I. This chapter is to be interpreted in conjunction with Government Code Section [65915](#) and terms defined therein shall have the same meaning for this chapter.

J. Any reference to a state law code section includes any amendments thereto.

18.42.035 Application procedures.

A. The City shall notify the applicant when the application is determined to be complete in accordance with the timelines specified in Government Code section 65943.

B. The notice of completeness shall include the following information:

1. The amount of density bonus for which the applicant is eligible;
2. If the applicant requests a revised parking ratio in accordance with Section 18.43.090, the parking ratio for which the applicant is eligible; and
3. If the applicant requests incentives or concessions pursuant to Section 18.43.050 or waivers or modifications pursuant to Section 18.43.060, whether the applicant has provided adequate information to allow the City to make a determination as to such request.

18.43.040 Density bonus.

A. An applicant shall be entitled to a density bonus as set forth below. For purposes of calculating the amount of the density bonus to be awarded, if an applicant qualifies for more than one category, the applicant shall elect which category the density bonus shall be awarded under.

TYPE OF HOUSING UNITS	AMOUNT OF HOUSING REQUIRED FOR DENSITY BONUS	DENSITY BONUS PROVIDED TO DEVELOPER	ADDITIONAL DENSITY BONUS UNITS THAT MAY BE AVAILABLE TO DEVELOPER
Lower income	10%	20%	1.5% for every 1% above threshold – up to a maximum of 35%
Very low income	5%	20%	2.5% for every 1% above threshold – up to a maximum of 35%
Senior housing development or mobile homes	Housing development must be at least 35 units to qualify	20%	No additional units – 20% max.
Transitional foster youth, disabled veterans, homeless persons	10%	20% of the number of the type of units giving rise to the density bonus	No additional units – 20% max.
Common interest development	10% of units reserved for persons and families of moderate income	5%	1% for every 1% above threshold – up to a maximum of 35%

TYPE OF HOUSING UNITS	AMOUNT OF HOUSING REQUIRED FOR DENSITY BONUS	DENSITY BONUS PROVIDED TO DEVELOPER	ADDITIONAL DENSITY BONUS UNITS THAT MAY BE AVAILABLE TO DEVELOPER
Student housing	20% of units for lower income students meeting requirements of Gov. Code § 65915(b)(1)(F)	35% of the student housing units	No additional units - 35% max.
100% Affordable Housing	100%, exclusive of manager's unit(s) are for lower income, except 20% may be for moderate income	80% of the number of units for lower income households	No additional units – 80% max.
100% Affordable Housing	100%, exclusive of manager's unit(s) are for lower income, except 20% may be for moderate income which is located within ½ mile of a major transit stop	No limit on density	Not applicable

B. If an applicant for a tentative subdivision map, parcel map, or other residential development donates land to the city in accordance with Section [18.43.070](#), the applicant shall be entitled to a density bonus as set forth below. The increase allowed by this subsection may be combined with an increase allowed under subsection A of this section up to a total of thirty-five percent.

TYPE OF HOUSING UNITS	AMOUNT OF LAND REQUIRED FOR DENSITY BONUS	DENSITY BONUS PROVIDED TO DEVELOPER	ADDITIONAL DENSITY BONUS UNITS THAT MAY BE AVAILABLE TO DEVELOPER
Land donation	Sufficient land to allow construction of units in an amount of 10% of the number of residential units of the proposed development	15%	1% for each 1% increase above the threshold percentage when requirements are met – up to a maximum of 35%

C. If an applicant for a housing development that satisfies one of the criteria of subsection A of this section also proposes to construct a child care facility in accordance with Section [18.43.080](#), the applicant shall be entitled to a density bonus as follows, unless the applicant chooses to receive an additional incentive/concession that

contributes significantly to the economic feasibility of the construction of the childcare facility:

TYPE OF HOUSING UNITS	AMOUNT OF HOUSING REQUIRED FOR DENSITY BONUS	DENSITY BONUS PROVIDED TO DEVELOPER	ADDITIONAL DENSITY BONUS UNITS THAT MAY BE AVAILABLE TO DEVELOPER
One of above from subsection A of this section plus child care facility	Must meet requirement from above for type of housing	Amount proportionate to square footage of child care facility (or additional concession/incentive)	N/A

D. All density calculations resulting in fractional units shall be separately rounded up to the next whole number.

E. 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. Siting for the affordable units within a housing development shall be as approved by the approving body of the underlying application.

G. Affordable units developed in conjunction with a market rate development shall be of equal design and quality as the market rate units. Exteriors, including architecture and elevations of the affordable units shall be similar to the market rate units. Interior finishes, floor plans, and amenities may differ from those provided in the market rate units, but neither the workmanship nor the products may be of substandard or inferior quality as determined by the building official.

18.43.045 Affordability.¹

A. An applicant shall enter into an affordable housing agreement to be recorded against the property with the city to ensure continued affordability of all low and very low income rental units that qualified the applicant for the award of the density bonus for at least fifty-five years, or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program.

B. Rent limits:

1. Except as provided in subsection 2 below, rents for lower income density bonus units shall be set at an affordable rent;

2. For 100% Affordable Housing, rents shall be as follows:

a. The rent for at least 20 percent of the units in the development shall be set at an affordable rent; and

b. The rent for the remaining units in the development shall be set at an amount consistent with the maximum rent levels for a housing development that receives an allocation of state or federal low-income housing tax credits from the California Tax Credit Allocation Committee.

C. An applicant shall enter into an affordable housing agreement with the city to be recorded against the property to ensure that the initial occupant of all for-sale density bonus units are persons and families of very low, low, or moderate income, as required, and that the units are made available at an affordable housing cost.

D. The city shall require an equity sharing agreement for all for-sale density bonus units, unless it is in conflict with the requirements of another public funding source or law. The following provisions shall be required in an equity sharing agreement, unless in conflict with the requirements of another public funding source or law:

1. Upon resale, the seller of the unit 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 and its proportionate share of appreciation, which amount shall be used within five years for any of the purposes described in Health and Safety Code Section [33334.2](#) that promote home ownership.

2. 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 the market value is lower than the initial market value upon resale, then the value at the time of resale shall be used as the initial market value.

3. 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.

18.43.050 Concessions/incentives.

A. The application shall receive the following number of concessions/incentives:

TYPE OF HOUSING UNITS	AMOUNT OF HOUSING REQUIRED FOR INCENTIVE/CONCESSION	NUMBER OF INCENTIVES/CONCESSIONS AVAILABLE TO DEVELOPER
Lower income	10%	1
	20%	2
	30%	3
Very low income	5%	1
	10%	2
	15%	3
Moderate income common interest development	10%	1
	20%	2
	30%	3
One of above plus child care facility	No threshold	1 additional concession (or additional square footage)
100% Affordable Housing	100%, exclusive of manager's unit(s) are for lower income, except 20% may be for moderate income	4
100% Affordable Housing	100%, exclusive of manager's unit(s) are for lower income, except 20% may be for moderate income which is located within ½ mile of a major transit stop	4 + a height increase of up to three additional stories, or 33 feet

B. The city shall grant the concessions/incentives requested by the applicant unless the city makes a written finding, based on substantial evidence, that:

1. The incentive/concession does not result in identifiable and actual cost reductions to provide for affordable housing costs or for rents for the targeted units.
2. The incentive/concession would have a specific adverse impact upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid specific adverse impact without rendering the development unaffordable to low and moderate income households.

3. The incentive/concession would be contrary to state or federal law.

C. This section does not limit or require the provision of direct financial incentives for the housing development, including the provision of city-owned land, or the waiver of fees or dedication requirements. However, if the city does provide a direct financial contribution through participation in cost of infrastructure, write-down of land costs, or subsidizing the cost of construction, the applicant shall be required to enter into an affordable housing agreement for fifty-five years.

18.43.060 Waiver/modification of development standards.

A. In addition to the concessions/incentives required pursuant to Section [18.43.050](#), the city shall not apply any development standard that will have the effect of physically precluding the construction of a housing development that satisfies one of the criteria of Section 18.43.030A at the densities or with the concessions/incentives set forth in this chapter.

B. The city is not required to grant the waiver/modification of the development standard if it makes a written finding, based on substantial evidence, that:

1. The waiver/modification would have a specific, adverse impact upon the health, safety or the physical environment, or on any real property that is listed in the California Register of Historical Resources, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact.
2. The waiver/modification would be contrary to state or federal law.
3. A proposal for waiver or modification under this section shall not change the number of incentives/concessions to which an applicant is entitled pursuant to Section [18.43.050](#).

C. An applicant for a 100% Affordable Housing project that receives a waiver from any maximum controls on density shall not be eligible for, and shall not receive, a waiver of any other development standard other than as provided for in Section 18.43.050A above.

18.43.090 Parking standards.

A. Upon request of an applicant, the city shall not require a vehicular parking ratio, inclusive of accessible and guest parking, of a development meeting one of the criteria of Section 18.43.030A which exceeds the following:

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 the above, upon the request of the applicant, the city may not impose a vehicular parking ratio, inclusive of accessible and guest parking, that exceeds the standards set forth below when the specified conditions are met:

1. Exceeds one-half space per bedroom when the development includes the maximum percentage of low (twenty percent) or very low (eleven percent) income units and has unobstructed access to a major transit stop located within one-half mile of the development; or

2. Exceeds one-half space per unit when the development consists solely of rental units, exclusive of a manager's unit(s), with an affordable housing cost to lower income families and has unobstructed access to a major transit stop located within one-half mile of the development; or

3. Exceeds one-half space per unit when the development consists solely of rental units, exclusive of a manager's unit(s), where the development is a housing development for individuals who are sixty-two years of age or older that complies with Civil Code Sections [51.2](#) and [51.3](#) and the development has paratransit service or has unobstructed access to a fixed bus route service that operates at least eight times per day located within one-half mile of the development; or

4. No minimum parking requirement when the development consists solely of rental units, exclusive of a manager's unit(s), with an affordable cost to lower income families, as provided in Health and Safety Code section 50052.5 and the development is either a special needs housing development as provided for in Health and Safety Code Section 51312 or a supportive housing development as defined in Health and Safety Code section 50675.14. In the case of a special needs housing development, such development shall have either paratransit service or unobstructed access to a fixed bus route service that operates at least eight times per day.

C. The parking ratios set forth in subsection B of this section may be increased to no more than the ratios set forth in subsection A of this section if the city or an independent consultant has conducted a parking study that meets the requirements of Government Code Section [65915](#)(p)(5) and the city makes findings based on such parking study supporting the need for a higher parking ratio.

D. 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. A development may provide on-site parking through tandem parking or uncovered parking, but not through on-street parking.

E. A development may provide on-site parking through tandem parking or uncovered parking, but not through on-street parking.

F. The applicant may request additional parking concessions/incentives beyond that provided herein in accordance with Section 18.43.030.

SECTION 2. CEQA.

The adoption of this Ordinance is exempt from CEQA under the common sense exemption set forth in CEQA Guidelines section 15061(b)(3) that CEQA does not apply where it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment. The density bonus provisions are set forth in State law. The City is required to adopt an ordinance implementing the provisions of Government Code section 65915 and the provisions apply even if the City fails to adopt an ordinance.

SECTION 3. EFFECTIVE DATE.

This Ordinance shall take effect on the thirty-first day after passage.

SECTION 4. CERTIFICATION.

The City Clerk shall certify the passage of this ordinance and shall cause the same to be entered in the book of original ordinances of said City; shall make a minute passage and adoption thereof in the records of the meeting at which time the same is passed and adopted; and shall, within fifteen (15) days after the passage and adoption thereof, cause the same to be published as required by law, in a publication of general circulation.

PASSED, APPROVED AND ADOPTED this 26th day of May, 2020.

Tasha Cerda
TASHA CERDA, Mayor

ATTEST:

for Bucky Romero
MINA SEMENZA, City Clerk

APPROVED AS TO FORM:

Carmen Vasquez
CARMEN VASQUEZ, City Attorney

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss:
CITY OF GARDENA)

I, **MINA SEMENZA**, City Clerk of the City of Gardena, do hereby certify that the whole number of members of the City Council of said City is five; that the foregoing Ordinance being **Ordinance No. 1817** was duly passed and adopted by the City Council of said City of Gardena, approved and signed by the Mayor of said City, and attested by the City Clerk, all at a regular meeting of said City Council held on the **26th** day of **May, 2020**, and that the same was so passed and adopted by the following roll call vote:

AYES: COUNCIL MEMBERS KASKANIAN AND TANAKA, MAYOR PRO TEM
 HENDERSON, COUNCIL MEMBER FRANCIS AND MAYOR CERDA

NOES: NONE

ABSENT: NONE

Becky Romero
for _____
City Clerk of the City of Gardena, California

(SEAL)