

## Existing Regulations (Inland)

### Section 314-112

#### 112.1 RESIDENTIAL DENSITY BONUS AND OTHER DEVELOPER INCENTIVES

**112.1.1 Purpose.** This Density Bonus Ordinance is intended to provide incentives for the production of affordable housing, senior housing and the development of child care facilities. In enacting this Chapter, it is the intent of the County of Humboldt to implement the goals, objectives, and policies of the County General Plan and further to implement and be subject to California Government Code Section [65915](#). In the event that any provision in this chapter conflicts with state law, state law shall control.

**112.1.2 Definitions.** Whenever the following terms are used in this Section, they shall have the meaning established by this subsection and as defended in Section C: Index of Definitions of Language and Legal Terms.

112.1.2.1 Affordable Housing/Affordable Housing Unit

112.1.2.2 Affordable Rent

112.1.2.3 Child Care Facility

112.1.2.4 Density Bonus

112.1.2.5 Density Bonus Housing Agreement

112.1.2.6 Density Bonus Units

112.1.2.7 Housing Development

112.1.2.8 Incentives or Concessions

112.1.2.9 Initial Subsidy

112.1.2.10 Low Income Household

112.1.2.11 Moderate Income Household

112.1.2.12 Proportionate Share of Appreciation

112.1.2.13 Senior Citizen Housing Development

112.1.2.14 Very Low Income Household

**112.1.3 Application for Density Bonus and Incentives or Concessions.** At the time the applicant of a proposed Housing Development, seeking a density bonus and concessions or incentives under this chapter, files a formal application for approval of the proposed

development with the Planning Division of Humboldt County the following information shall be submitted with the fees and required application:

112.1.3.1 Identification of the location, acreage, and the maximum number of base units allowed under the zoning and the land use designated under the General Plan without the Density Bonus.

112.1.3.2 Identification of the total number of units proposed, specifically identifying the Density Bonus units and the Affordable Units which will demonstrate eligibility under this chapter.

112.1.3.3 Identification of the requested concessions or incentives or a list of any alternative concessions or incentives which would provide, in the developer's opinion, an equivalent financial value to the concession or incentive requested. This requirement does not impair the applicant from substituting a new incentive or concession from what is initially proposed, but substitution may cause project delays and require revision of environmental documents, and may necessitate additional processing fees as determined by the Planning Director.

112.1.3.4 A clear statement of how the requested concessions or incentives are necessary to make the proposed Housing Development economically feasible, and result in identifiable, financially sufficient and actual cost reductions. The information should be sufficiently detailed to enable County staff to examine the conclusions reached by the developer.

112.1.3.5 Other pertinent information as the Planning Director may require to enable the County to adequately analyze the identifiable, financially sufficient and actual cost reductions of the proposed Housing Development with respect to the requested additional concession or incentive and other concessions or incentives which may be made available.

#### **112.1.4 Processing of Density Bonus Application.**

112.1.4.1 Once deemed complete, the density bonus application shall be processed and determinations made concurrent with the underlying Housing Development application.

112.1.4.2 **Review Authority.** A request for density bonus will be reviewed by the same review authority as the Housing Development's other entitlements specifically noted below. The reviewing authority shall grant the density bonus and requested incentive(s) or concession(s) unless the findings in Section [112.1.4.2](#) can be made.

112.1.4.2.1 Design Review. When a proposed Housing Development needs only Design Review, then the Design Review Board (if established) or the Planning Director will consider and act on the density bonus request when the preliminary design review application is considered.

112.1.4.2.2 Planning Commission/Board of Supervisors. If the project requires entitlements or an environmental clearance to be considered by the Planning Commission and/or the Board of Supervisors, then these decision bodies will consider and act on the density bonus request concurrent with the applicable project entitlement/environmental clearance.

112.1.4.3 A Housing Development including at least 20 percent of total units affordable to very low or low income households or a combination of the two, with affordable rents maintained through an agreement with the County of Humboldt or another governmental agency, shall be entitled to priority processing. Priority processing shall mean a timeline for review of the Housing Development and all associated applications as mutually agreed to by the County and the developer.

112.1.4.4 **Application for Density Bonus Housing Agreement.** Once the proposed Housing Development has received its approval for Density Bonus, as described above, the developer shall file an application, including the payment of any processing fees with the Planning Division for approval and finalization of the Density Bonus Agreement in compliance with the requirements set forth in Section [112.1.10](#).

#### **112.1.5 Eligibility Criteria for Density Bonus.**

112.1.5.1 The County of Humboldt shall consider a density bonus and provide incentives or concessions as described in Section [112.1.8](#), when a developer of a Housing Development seeks and agrees to construct a Housing Development that will contain at least one of the following:

112.1.5.1.1 Ten percent of the total units of a Housing Development strictly for Low Income Households as defined herein;

112.1.5.1.2 Five percent of the total units of a Housing Development strictly for Very Low Income Households as defined herein;

112.1.5.1.3 A Senior Citizen Housing Development, as defined herein;

112.1.5.1.4 Ten percent of the total dwelling units in a condominium or planned unit development for persons and families of Moderate Income Households as

defined herein, provided that all units in the development are offered to the public for purchase.

**112.1.6 Project Specific Density Bonus.** The County of Humboldt will allow a Housing Development a density bonus and concessions or incentives meeting all the applicable eligibility requirements of this chapter according to the following density bonus options. In the event that the minimum requirements for granting density bonus units or number of applicable concessions or incentives as set forth in [California Government Code 65915](#) is amended or modified after the adoption of this chapter by the County, then the lowest minimum requirements shall apply.

**112.1.6.1 Density Bonus for Very Low Income Households.** If a housing developer elects to construct units for Very Low Income Households, the development shall be entitled to the following Density Bonus calculation:

**Provision of Very Low Income Units**

<b>Percentage of Very Low Income Units Affordable</b>	<b>Density Bonus Available*</b>	<b>Number of Incentives or Concessions</b>
5%	20%	1
6%	22.5%	1
7%	25%	1
8%	27.5%	1
9%	30%	1
10%	32.5%	2
11%	35%	2
15%	35%	3

\* the allowed increase is the percentage over the total number of units that would be allowed without a Density Bonus

**112.1.6.2 Density Bonus for Low Income Households.** If a housing developer elects to construct units for Low Income Households, the Housing Development shall be entitled to the following Density Bonus calculation:

### Provision of Low Income Units

Percentage of Low Income Units Affordable	Density Bonus Available*	Number of Incentives or Concessions
10%	20%	1
11%	21.5%	1
12%	23%	1
13%	24.5%	1
14%	26%	1
15%	27.5%	1
17%	30.5%	1
18%	32%	1
19%	33.5%	1
20%	35%	2
30%	35%	3

\* the allowed increase is the percentage over the total number of units that would be allowed without a Density Bonus

**112.1.6.3 Senior Housing.** If a housing developer elects to construct a Senior Citizen Housing Development, the density bonus shall be 20 percent of the total number of allowed housing units without the Density Bonus.

**112.1.6.4 Moderate Income Units in Condominiums and Planned Developments.** If a housing developer elects to construct units for Moderate Income Households, the development shall be entitled to the following Density Bonus calculation:

### Moderate Income Units

Percentage of Moderate Income Units Affordable	Density Bonus Available*	Number of Incentives or Concessions
10%	5%	1
11%	6%	1
12%	7%	1
13%	8%	1
14%	9%	1
15%	10%	1
16%	11%	1
17%	12%	1
18%	13%	1
19%	14%	1
20%	15%	2
21%	16%	2
23%	18%	2
24%	19%	2
25%	20%	2
26%	21%	2
27%	22%	2
28%	23%	2
30%	25%	3
31%	26%	3

### Moderate Income Units

Percentage of Moderate Income Units Affordable	Density Bonus Available*	Number of Incentives or Concessions
32%	27%	3
33%	28%	3
34%	29%	3
35%	30%	3
36%	31%	3
37%	32%	3
38%	33%	3
39%	34%	3
40%	35%	3

\* the allowed increase is the percentage over the total number of units that would be allowed without a Density Bonus

**112.1.6.5 Density Bonus for Land Donation.** When an applicant for a tentative map, parcel map, or other residential development approval donates at least one acre of land or enough land to develop 40 units, then the applicant shall be entitled to a fifteen percent (15%) increase above the otherwise maximum allowable residential density for the entire Housing Development as follows:

### LAND DONATION

Percentage of Very Low Income Units	Percentage Density Bonus
10%	15%
11%	16%
12%	17%
13%	18%

## LAND DONATION

Percentage of Very Low Income Units	Percentage Density Bonus
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%
29%	34%
30%	35%

112.1.6.5.1 Nothing in this subsection shall be construed to enlarge or diminish the authority of the County to require a developer to donate land as a condition of development.

112.1.6.5.2 The Density Bonus for land dedication shall be in addition to any Density Bonus earned pursuant to Section [112.1.6](#) and up to a maximum combined increase of 35 percent.



112.1.6.5.3 An applicant with a land donation shall be eligible for the increased Density Bonus if all of the following conditions are met:

112.1.6.5.3.1 The applicant donates and transfers the land to the County no later than the date of approval of the County of the final subdivision map, parcel map, or Housing Development application for the proposed Housing Development seeking the Density Bonus.

112.1.6.5.3.2 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 an amount not less than 10 percent of the number of residential units of the proposed Housing Development seeking the Density Bonus.

112.1.6.5.3.3 The land proposed to be donated to the County:

112.1.6.5.3.3.1 has the appropriate General Plan designation and is appropriately zoned for development at the density described in paragraph (3) of subsection (c) of Section 65583.2; and

112.1.6.5.3.3.2 is or will be served by adequate public facilities and infrastructures; and

112.1.6.5.3.3.3 is donated no later than the date of approval of the final subdivision map, parcel map or Housing Development application seeking a Density Bonus and has 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; and

112.1.6.5.3.3.4 is transferred to the County or a housing developer approved by the County; and

112.1.6.5.3.3.5 shall be within the boundary of the proposed development or within one-quarter mile of the boundary of the proposed development; and

112.1.6.5.3.3.6 must have a proposed source of funding for the very low income units prior to the approval of the final subdivision map, parcel map or Housing Development application seeking the Density Bonus.

112.1.6.5.4 The transferred land and the Affordable Housing Units shall be subject to a deed restriction, which shall be recorded on the property upon dedication, ensuring continued affordability of units for at least 30 years from the date of occupancy.

112.1.6.6 **Condominium Conversions.** Density Bonus for Condominium Conversion shall be considered and approved in accordance with Section [65915.5](#) of the California Government Code for specifications.

**112.1.7 Density Bonus for Development of Child Care Facility.**

112.1.7.1 A Housing Development meeting the requirements of Section [112.1.5](#) and [112.1.6](#) above and including a child care facility that will be located on the premises of, as part of, or adjacent to, such a Housing Development shall receive either of the following:

112.1.7.1.1 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 child care facility.

112.1.7.1.2 An additional incentive or concession that contributes significantly to the economic feasibility of the construction of the child care facility.

112.1.7.2 When a Housing Development is providing a Child Care Facility consistent with this ordinance, then the conditions of approval shall require that:

112.1.7.2.1 The child care facility shall remain in operation for a period of time that is as long as or longer than the period of time during which the affordable units are required to remain affordable; and

112.1.7.2.2 Of the children who attend the childcare facility, the children of Very Low Income Households, Lower Income Households, or persons or families of Moderate Income shall equal a percentage that is equal to or greater than the percentage of affordable units that are required pursuant to Section [112.1.5](#).

112.1.7.3 The County shall not be required to provide a density bonus or incentive or concession for a child care facility if it makes a written finding, based upon substantial evidence, that the community has adequate child care facilities.

**112.1.8 Available Incentives and Concessions.** In addition to the applicable density bonus described above, an applicant may request incentives or concessions in connection with its application for a density bonus in accordance with the density bonus calculation set forth in Section [112.1.6](#).

112.1.8.1 An incentive or concession may mean:

112.1.8.1.1 A reduction in the site development standards or a modification of zoning code requirements including but not limited to:

- 112.1.8.1.1.1 Reduced minimum lot sizes and dimensions.
- 112.1.8.1.1.2 Reduced minimum yard setbacks.
- 112.1.8.1.1.3 Increased maximum lot coverage; up to 80% lot coverage is allowed.
- 112.1.8.1.1.4 Increased maximum building height.
- 112.1.8.1.1.5 Reduced minimum building separation requirements.
- 112.1.8.1.1.6 Reduced street standards (e.g. reduced minimum street widths).
- 112.1.8.1.1.7 Reduced solar shading requirements.
- 112.1.8.1.2 Other regulatory incentives or concessions proposed by the developer or the County which result in identifiable cost reductions or avoidance.
- 112.1.8.1.3 A Density Bonus of more than twenty-five percent (25%). Density bonuses of 100% will be allowed for projects within mapped Housing Opportunity Zones with 100% of the units affordable to lower income households.
- 112.1.8.1.4 Deferred planning, plan check, construction permit, improvement plan review fees, map check fees, and/or development impact fees for projects with 100% of the units affordable to lower income households.
- 112.1.8.1.5 Direct financial aid in the form of a loan or a grant to subsidize or provide low interest financing for on- or off-site improvements, land or construction costs for projects with 100% of the units affordable to lower income households.
- 112.1.8.1.6 Fast-track processing of all permits and requirements for affordable housing projects through the Planning and Building, Environmental Health and Land Use Divisions by dedicated staff on a priority basis ahead of non-density bonus permit applications.
- 112.1.8.1.7 Deferral of subdivision improvement requirements consistent with the protection of public health and safety.
- 112.1.8.1.8 Approval of mixed-use development in conjunction with the proposed Housing Development if the non-residential land uses will reduce the cost of the proposed Housing Development, and the non-residential land uses are compatible with the proposed Housing Development and surrounding development;

112.1.8.1.9 Other regulatory incentives or concessions proposed by the applicant or that the County determines will result in identifiable, financially sufficient, and actual cost reductions.

112.1.8.2 The County shall grant incentive(s) or concession(s) requested by the applicant unless the County can make a written finding, based upon the substantial evidence, of any of the following:

112.1.8.2.1 The incentive or concession is not required in order to provide for affordable housing costs or affordable rents.

112.1.8.2.2 The incentive or concession would have a specific adverse impact, as defined in paragraph (2) of subdivision (d) of Section [65589.5](#) of the California Government Code, upon public health and safety or physical environment or any real property that is listed in the California Register of Historical Resources and for which the County determines there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate- income households.

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

#### **112.1.9 General Provisions for Density Bonuses and Incentives/Concessions.**

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

112.1.9.2 The granting of a density bonus shall not be interpreted, in and of itself, to require a general plan amendment, zoning change, or other discretionary approval.

112.1.9.3 Upon request by the applicant, the County shall not require the proposed Housing Development eligible for a Density Bonus pursuant to this chapter to provide a parking ratio, including handicapped and guest parking, that exceeds the following:

112.1.9.3.1 Zero (0) to one (1) bedrooms: one (1) onsite parking space

112.1.9.3.2 Two (2) to three (3) bedrooms: two (2) onsite parking spaces

112.1.9.3.3 Four (4) and more bedrooms: two and one-half (2 ½) parking spaces.

If the total number of parking spaces required for the proposed Housing Development is other than a whole number, the number shall be rounded up to the next whole number. For purposes of this subsection, a development may provide onsite parking through tandem parking or uncovered parking, but not through on-street parking.

112.1.9.4 The County shall not apply any development standard that would have the effect of precluding the construction of a proposed Housing Development meeting the requirements of Section [112.1.6](#) at the densities or with the incentives permitted by this Chapter. An applicant may submit with its application to the County a proposal for the waiver or reduction of development standards. A waiver or reduction of development standards, the application of which would physically preclude the development, shall not reduce nor increase the number of incentives or concessions being requested. Nothing in this subsection, however, shall be interpreted to require the County to waive or reduce development standards if the waiver or reduction would have a specific adverse impact, as defined in paragraph (2) of subdivision (d) of Section [65589.5](#) of the California Government Code, 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 the County determines there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Furthermore, the applicant shall be required to prove that the waiver or modification is necessary to make the affordable units economically feasible.

**112.1.9.5 Location of Affordable Units.** The location of the affordable units within the Housing Development may be at the discretion of the developer. However, the affordable units shall:

112.1.9.5.1 Be constructed at the same time as the market units are constructed.

112.1.9.5.2 Be reasonably dispersed throughout the development and/or phases if applicable.

112.1.9.5.3 Be a similar unit type/size to the overall Housing Development; and

112.1.9.5.4 Be reasonably compatible with the design or use of the remaining units in terms of appearance, materials and quality finish.

**112.1.10 Required Density Bonus Agreement and Terms of Agreement.**

112.1.10.1 A Density Bonus Housing Agreement must be executed prior to recording any final map for the underlying property or prior to the issuance of any building permit for the Housing Development, whichever comes first. The Density Bonus Housing Agreement shall be binding on all future owners and successors of interests of the Housing Development.

112.1.10.2 The Density Bonus Housing Agreement shall:

112.1.10.2.1 Identify the type, size and location of each Affordable Housing Unit required hereunder;

112.1.10.2.2 Identify the term of the agreement, which would define the term of affordability of the required units;

112.1.10.2.3 Require that the Affordable Housing Units be constructed and completed by the developer as specified in this Chapter and in accordance with state law;

112.1.10.2.4 Require that each Affordable Housing Unit be kept available only to members of the identified income group at the maximum affordable rent during the term of the agreement.

112.1.10.2.5 Identify the means by which such continued availability shall be secured and enforced and the procedures under which the Affordable Housing Units shall be leased and shall contain such other terms and provisions, the Planning Director may require. The agreement, in its form and manner of execution, shall be in a form able to be recorded with the Humboldt County Recorder.

112.1.10.2.6 The Density Bonus Housing Agreement shall be reviewed and approved by the Planning Director and the affordability of the required units shall be monitored for compliance by the Planning Division staff. The Planning Director is hereby expressly authorized to act as the County's agent to enter into the Density Bonus Housing Agreement for the purpose of enforcing the terms of the agreement consistent with this chapter.

### **112.1.10.3 Required Terms for the Continued Availability of Affordable Units.**

112.1.10.3.1 Low and Very Low Income Households. A housing developer providing Low and Very Low income units in accordance with this chapter must continue to restrict those units to Low or Very Low Income households for a minimum of 30 years or longer term under another regulatory agreement from the date of initial occupancy.

112.1.10.3.2 Moderate Income Households. In the case of a Housing Development providing Moderate Income units, the initial occupant of the unit must be a person or family of Moderate Income.

112.1.10.3.2.1 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 local government shall recapture any Initial Subsidy and its Proportionate Share of Appreciation; which 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. Any recaptured funds shall be deposited into a Housing Trust Fund to be used in accordance with subsection (e) of Section [33334.2](#) of the Health and Safety Code.”

#### **112.1.11 Application Requirements and Review.**

112.1.11.1 An application for a density bonus and additional incentives as allowed pursuant to this Chapter shall be processed concurrently with any other application(s) required for the Housing Development. Final approval or disapproval of the application (with right of appeal to the Board of Supervisors) shall be made by the Planning Commission unless direct financial assistance is requested. If direct financial assistance is requested, the Planning Commission shall make a recommendation to the Board of Supervisors who will have the authority to make the final decision on the application.

112.1.11.2 An applicant/developer proposing a Housing Development pursuant to this Chapter, may submit a preliminary application prior to the submittal of any formal request for approval of a Housing Development. Applicants are encouraged to schedule a pre-application conference with the Director or designated staff to discuss and identify potential application issues including prospective Additional Incentives pursuant to Section 5 of this Chapter.

112.1.11.3 The Director or designated staff shall inform the applicant/developer that the requested Additional Incentives shall be recommended for consideration with the proposed Housing Development, or that alternative or modified Additional Incentives pursuant to Section [314-112.1.5](#) shall be recommended for consideration instead of the requested Incentives. If alternative or modified Incentives are recommended by the Director, the recommendation shall establish how the alternative or modified Incentives can be expected to have an equivalent affordability effect as the requested Incentives.

#### **112.1.12 Density Bonus Housing Agreement.**

112.1.12.1 Applicant/Developers requesting a Density Bonus, shall agree to enter into a Density Bonus Housing Agreement with the County. The terms of the draft agreement shall be reviewed and revised as appropriate by the Director or designated staff, who shall formulate a recommendation to the Planning Commission for final approval.

112.1.11.2 Following execution of the agreement by all parties, the completed Density Bonus Housing Agreement, or other equivalent recording instrument, shall be recorded and the conditions therefrom filed and recorded on the parcel or parcels designated for the construction of Target Units. The approval and recordation shall take place prior to final map approval, or, where a map is not being processed, prior to issuance of building permits for such parcels or units. The Density Bonus Housing Agreement shall be binding to all future owners and successors in interest.

112.1.11.3 The Density Bonus Housing Agreement shall include at least the following:

112.1.11.3.1 The total number of units approved for the Housing Development, including the number of Target Units.

112.1.11.3.2 A description of the household income group to be accommodated by the Housing Development, as outlined in Section [314-112.1.3](#), and the standards for determining the corresponding Affordable Rent or Affordable Sales Price and Housing Cost.

112.1.11.3.3 The location, unit sizes (square feet) and number of bedrooms of Target Units.

112.1.11.3.4 Tenure of use restrictions for Target Units of at least 10 or 30 years, in accordance with Section 4 of this Chapter.

112.1.11.3.5 A schedule for completion and occupancy of Target Units.

112.1.11.3.6 A description of the Additional Incentive(s) or Equivalent Financial Incentives being provided by the County.

112.1.11.3.7 A description of remedies for breach of the agreement by either party (the County may identify tenants or qualified purchasers as third party beneficiaries under the agreement).

112.1.11.3.8 Other provisions to ensure implementation and compliance with this Chapter.

112.1.11.3.9 In the case of for-sale Housing Developments, the Density Bonus Housing Agreement shall provide for the following conditions governing the initial sale and use of Target Units during the applicable use restriction period:

112.1.11.3.9.1 Target Units shall, upon initial sale, be sold to eligible Very Low or Lower Income Households at an Affordable Sales Price and Housing Cost, or



to Qualified Residents (i.e. maintained as Senior Citizen Housing) as defined by this Chapter.

112.1.11.3.9.2 Target Units shall be initially owner-occupied by eligible Very Low or Lower Income Household; or by Qualified Residents in the case of Senior Citizen Housing.

112.1.11.3.9.3 The initial purchaser of each Target Unit shall execute an instrument or agreement approved by the County restricting the sale of the Target Units in accordance with this ordinance during the applicable use restriction period. Such instrument or agreement shall be recorded against the parcel containing the Target Unit and shall contain such provisions as the County may require to ensure continued compliance with this ordinance and the State Density Bonus Law.

112.1.11.3.10 In the case of rental Housing Developments, the Density Bonus Housing Agreement shall provide for the following conditions governing the use of Target Units during the use restriction period:

112.1.11.3.10.1 The rules and procedures for qualifying tenants, establishing Affordable Rent, filling vacancies, and maintaining Target Units for qualified tenants;

112.1.11.3.10.2 Provisions requiring owners to verify tenant incomes and maintain books and records to demonstrate compliance with this Chapter.

112.1.11.3.10.3 Provisions requiring owners to submit an annual report to the County, which includes the name, address, and income of each person occupying Target Units, and which identifies the bedroom size and monthly rent or cost of each Target Unit.