



# City of Palo Alto

## City Council Staff Report

(ID # 12272)

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**Report Type:** Consent Calendar

**Meeting Date:** 5/18/2021

**Summary Title:** Ordinance to Update Density Bonus Code PAMC 18.15

**Title:** Adoption of Ordinances Responding to State Housing Bills Regarding Density Bonus and Affordable Housing, **Environmental Assessment:** Exempt pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3)

**From:** City Manager

**Lead Department:** Planning and Development Services

**Recommendation:**

Staff recommends the City Council adopt the attached ordinances, which update Palo Alto's Density Bonus (Attachment A) and Parking (Attachment B) regulations to comply with recent changes in state law.

**Background:**

Chapter 18.15 of the Palo Alto Municipal Code outlines the City's Residential Density Bonus program. This Chapter was enacted to comply with the state density bonus law, California Government Code Section 65915. California's density bonus law requires local governments to provide housing developers with density bonuses and other concessions or incentives when the developers agree to provide a certain percentage of affordable housing. This state law requires compliance by local governments, even in the absence of local ordinances providing state-mandated bonuses, concessions, or incentives. A local ordinance, however, can provide clarity to developers and the public regarding the interaction of state density bonus law with other aspects of local zoning regulations.

Palo Alto first adopted its Residential Density Bonus ordinance (PAMC Chapter 18.15) in 2014. Since that time, the City has periodically updated the code in response to changes in state law. The pace of changes at the state level has increased in recent years.

In September of 2020, the Governor signed a package of fifteen bills aimed at increasing

affordable housing production and reducing housing costs. Several bills aimed to increase the incentives to build more affordable housing and to build more housing near public transit. Assembly Bill 2345, amending Sections 65400 and 65915 of the California Government Code, addressed both. This bill greatly expanded the bonuses available to developers and it requires substantial changes to the City's practices and ordinances.

Other amendments to the state density bonus law from prior years, such as AB 1934, SB 1227 and AB 2372, have also changed the City's obligations regarding granting density bonuses and concessions or incentives. The Palo Alto Municipal Code has not been updated to reflect those responsibilities.

Assembly Bill 1851 was also part of this package. This bill targeted parking requirements for religious institution affiliated housing development projects. It required an update to the adjustments available in the City's Parking Code, found in Chapter 18.52.

On March 31, 2021, the Planning and Transportation Commission unanimously recommended that the Council adopt the attached ordinances.<sup>1</sup>

### **Discussion:**

Regardless of whether the City acts to amend its ordinances, the changes to state law will dictate the City's actions. The state law is written to supersede any conflicting local ordinances. Amending the City's Zoning Code will provide clarity to the public about the current laws applicable in the City.

The following are changes made to Chapter 18.15, Residential Density Bonus:

- The Chapter is retitled to "Density Bonus." Though all density bonuses, concessions, and incentives relate to the provision of affordable housing, non-residential developments may still acquire some incentives under Density Bonus law through partnerships or donations. Section 18.15.030(i)(iii) also reflects this change.
- Under state law, thresholds to be eligible for density bonuses, concessions and incentives were lowered, while density bonus caps for several key types of developments were increased from thirty-five percent (35%) to fifty percent (50%). Some 100% affordable housing developments now have no unit density restrictions. The scales were thus adjusted in Sections 18.15.030, 18.15.050 and 18.15.060.

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<sup>1</sup> Staff report: <https://www.cityofpaloalto.org/files/assets/public/planning-amp-development-services/file-migration/bc/ptc/2021-agenda/ptc-3.31-agenda-packet.pdf> and Draft Minutes: <https://www.cityofpaloalto.org/files/assets/public/agendas-minutes-reports/agendas-minutes/planning-and-transportation-commission/2021/ptc-draft-minutes-3.31.2021.pdf>

- Some terminology has been updated throughout Chapter 18.15. State law no longer separately addresses “common interest development” in its affordable housing laws. In addition, state law now refers to “units sold to persons and families of low or moderate income,” and this phrase has been imported into the code. The phrase “handicapped parking” has been replaced with “parking for persons with a disability.”
- State law grants bonuses, concessions and incentives to developers building housing for lower income students. This was not reflected in Chapter 18.15. With the attached amendments, these bonuses, concessions and incentives would be codified in 18.15.030(c). Other incentives for developers building housing for lower income students can be found throughout Chapter 18.15, such as in Section 18.15.050, Development Concessions and Incentives.
- Additional bonuses, concessions and incentives were created for affordable housing developments built near public transit. This is reflected in 18.15.030(d)(ii) (density bonuses) and 18.15.050(b) (parking requirements).
- Parking requirements were generally lowered by state law. This is reflected throughout Section 18.15.050.
- Section 18.15.080, Application Requirements, was reformatted to better reflect the differences between concessions and incentives.

The following are changes made to Chapter 18.52, Parking and Loading Requirements:

- Section 18.52.040(a) now contains a reference to the varied exceptions to Section 18.52.040’s parking requirements listed in Chapter 18.15, Density Bonus.
- Section 18.52.045 was retitled to remove the word “Minor” from “Minor Adjustments to Existing Parking Facilities.” The subsection describing minor adjustments remains. An additional subsection was added to reflect the changes made to state law through AB 1851, which allows substantial adjustments to parking requirements for religious institution affiliated housing development projects.

### **Policy Implications:**

As noted above, staff is required to implement these recent changes to state law. Updating the municipal code will provide clarity for the public.

### **Environmental Review:**

The proposed ordinances revise the Palo Alto Municipal Code to comply with revisions to Government Code Section 65915 (Density Bonus) and Section 65913.5 (AB 1851). These provisions of the Government Code are already controlling with respect to the subject matter expressed in the ordinances; thus, the ordinances do not result in any substantive change to the type of development permitted in the City. Consequently, the ordinances are exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3) since it can be seen with certainty that there is no possibility the adoption and implementation of the ordinances may have a significant effect on the environment.

**Attachments:**

**Attachment A: Ordinance Amending PAMC Section 18.15 (PDF)**

**Attachment B: Ordinance Amending Ch 18.52 Regarding Religious Use Parking (PDF)**

Ordinance No. \_\_\_\_\_

Ordinance of the Council of the City of Palo Alto Amending Chapter 18.15 (Residential Density Bonus) of Title 18 (Zoning) of the Palo Alto Municipal Code (PAMC) to Update the Density Bonus Program in Accordance with AB 2345.

The Council of the City of Palo Alto ORDAINS as follows:

**SECTION 1.** Findings and declarations. The City Council finds and declares as follows:

- A. On September 28, 2020, the Governor approved AB 2345, which substantially revised requirements for the existing Density Bonus Law (Government Code Section 65400 et seq.), which requires a city to provide a developer that proposes a housing development within the jurisdictional boundaries of that city with a density bonus and other incentives or concessions for the production of lower income housing units, or for the donation of land within the development, if the developer agrees to construct a specified percentage of units for very low income, low-income, or moderate-income households or qualifying residents and meets other requirements.
- B. In previous years, the Governor also approved other revisions to the Density Bonus Law, including AB 1934, SB 1227, AB 2372, and AB 2753.
- C. The City Council is therefore updating the Density Bonus Chapter of the Zoning Code, Chapter 18.15 in Title 18 of the Palo Alto Municipal Code, to comply with these revisions.

**SECTION 2.** Chapter 18.15 (Density Bonus) of Title 18 (Zoning) is hereby amended as follows:

**18.15 RESIDENTIAL DENSITY BONUS**

[. . .]

**18.15.010 Purpose**

[. . .]

**18.15.020 Definitions**

Whenever the following terms are used in this chapter, they shall have the meaning established by this section:

[. . .]

(s) “Replace” means either of the following:

(i) If any dwelling units described in Section 18.15.030~~(h)~~(i) are occupied on the date that the application is submitted to the City, 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. For unoccupied dwelling units described in Section 18.15.030~~(h)~~(i) in a development with occupied units, the proposed housing development shall provide units of equivalent size or type, or both, 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 in the same proportion of affordability as the occupied units. 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, theses units shall be subject to a recorded affordability restriction for at least 55 years. For purposes of this subsection (s) of Section 18.15.020, “equivalent size” means that the replacement units contain at least the same total number of bedrooms as the units being replaced.

(ii) If all dwelling units described in Section 18.15.030~~(h)~~(i) 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, then one-half of the required units shall be made available at affordable rent or affordable housing cost to, and occupied by, very low income persons and families and one-half of the required units shall be made available for rent at affordable housing costs to, and occupied by, low-income persons and families. 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.

[. . .]

(v) “Lower income student” means a student who has a household income and asset level that does not exceed the level for Cal Grant A or Cal Grant B award recipients as set forth in Section 69432.7(k) of the Education Code. The eligibility of a unit for lower income students under this section shall be verified by an affidavit, award letter, or letter of eligibility provided by the institution of higher education in which the student is enrolled or by the California Student Aid Commission that the student receives or is

eligible for financial aid, including an institutional grant or fee waiver from the college or university, the California Student Aid Commission, or the federal government.

**18.15.030 Density Bonuses**

This section describes the density bonuses that will be provided, at the request of an applicant, when that applicant provides restricted affordable units as described below.

(a) The city shall grant a ~~20~~ twenty percent (20%) density bonus when an applicant for a development of five (5) or more dwelling units seeks and agrees to construct at least any one of the following in accordance with the requirements of this Section and Government Code Section 65915:

(i) At least ~~10~~ ten percent (10%) of the total dwelling units of the development as restricted affordable units affordable to lower income households. Between ten and twenty percent (10-20%), ~~For~~ each one percent (1%) increase in the percentage of restricted lower income units, a development will receive an additional one and one-half percent (1.5%) density bonus up to thirty-five percent (35%) of the maximum residential density. For each one percent (1%) increase in the percentage of restricted lower income units exceeding twenty percent (20%), a development will receive an additional three and three-quarters percent (3.75%) density bonus up to fifty percent (50%) of the maximum residential density; or

(ii) At least five percent (5%) of the total dwelling units of the development as restricted affordable units affordable to very low income households. Between five and eleven percent (5-11%), ~~for~~ each one percent (1%) increase in the percentage of restricted very low income units, a development will receive an additional two and one-half percent (2.5%) density bonus up to thirty-five percent (35%) of the maximum residential density. For each one percent (1%) increase in the percentage of restricted very low income units exceeding eleven percent (11%), a development will receive an additional three and three-quarters percent (3.75%) density bonus up to fifty percent (50%) of the maximum residential density; or

[. . .]

(b) The city shall grant a five percent (5%) density bonus when an applicant for a development of five (5) or more additional dwelling units seeks and agrees to construct a development, in accordance with the requirements of this Section and Government Code Section 65915, in which at least 10 percent (10%) of the total dwelling units ~~in a common interest development as defined in California Civil Code Section 4100~~ for of a housing development are sold to persons and families of low or moderate income households, provided that all dwelling units in the development are offered to the public for purchase. For each one percent (1%) increase in the percentage of restricted moderate income units between ten and forty percent (10-40%), a development will

receive an additional one percent (1%) density bonus up to thirty-five percent (35%) of the maximum residential density. For each one percent (1%) increase in the percentage of total dwelling units restricted for moderate income households exceeding forty percent (40%), a development will receive an additional three and three-quarters percent (3.75%) density bonus up to fifty percent (50%) of the maximum residential density.

(c) ~~Reserved.~~ The city shall grant a thirty-five percent (35%) density bonus when an applicant for a student housing development of five (5) or more additional dwelling units seeks and agrees to construct in accordance with the requirements of this Section and Government Code Section 65915:

(i) At least twenty percent (20%) of the total dwelling units will be restricted for lower income students.

(ii) For purposes of calculating a density bonus granted pursuant to this subparagraph, the term "unit" as used in this subparagraph means one rental bed and its pro rata share of the associated common area facilities. The units described in this subparagraph shall be subject to an affordability restriction of 55 years.

(iii) All units will be used exclusively for undergraduate, graduate, or professional students enrolled full time at an institution of higher education accredited by the Western Association of Schools and Colleges or the Accrediting Commission for Community and Junior Colleges.

(iv) The applicant submits evidence that the applicant entered into an operating agreement or master lease with one or more institutions of higher education for the institution(s) to occupy all units of the student housing development with students from that institution(s).

(v) The rent provided in the applicable units of the development for lower income students shall be calculated at thirty percent (30%) of sixty-five percent (65%) of the area median income for Santa Clara County for a single-room occupancy unit type.

(vi) The applicant will provide priority for the applicable affordable units for lower income students experiencing homelessness. A homeless service provider, as defined in paragraph (3) of subdivision (e) of Section 103577 of the Health and Safety Code, or institution of higher education that has knowledge of a person's homeless status may verify a person's status as homeless for purposes of this subclause.

(d) The city shall grant a density bonus to a development if the following criteria apply: one hundred percent (100%) of all units in the development, including total units and density bonus units, but exclusive of manager's unit or units, are for lower income households, as defined by Section 50079.5 of the Health and Safety Code, except that



twenty percent (20%) of the units in the development, including total units and density bonus units, may be for moderate-income households, as defined in Section 50053 of the Health and Safety Code. For rental units, rents shall be restricted as set forth in Government Code section 65915(c)(1)(B)(ii).

(i) Except as otherwise provided in clause (ii), the city will grant a density bonus of eighty percent (80%) of the number of units for lower income households.

(ii) If the development is located within one-half mile of a major transit stop, the city will not impose any maximum controls on density. ~~If no maximum control on density is imposed pursuant to this subparagraph, then the housing development will be eligible for four concessions or incentives, but not eligible for additional waivers or modifications to development standards, notwithstanding Section 18.15.060, except as the city may allow.~~

~~(d)~~(e) When calculating the number of permitted density bonus units, any fractions of units shall be rounded to the next highest number. An applicant may elect to receive a density bonus that is less than the amount permitted by this section; however, the city shall not be required to similarly reduce the number of restricted affordable units required to be dedicated pursuant to this section and Government Code Section 65915(b).

~~(e)~~(f) Each development is entitled to only one density bonus, which shall be selected by the applicant based on the percentage of very low restricted affordable units, lower income restricted affordable units, or moderate income restricted affordable units, or the development's status as a senior citizen housing development or qualifying mobilehome park, or the development's provision of restricted affordable units for transitional foster youth, disabled veterans or homeless persons. Density bonuses from more than one category may not be combined. Except as provided for in 18.15.030(d), ~~in~~ no case shall a development be entitled to a density bonus of more than ~~thirty-five~~ fifty percent (35%)-(50%).

~~(f)~~(g) The density bonus units shall not be included when determining the number of restricted affordable units required to qualify for a density bonus. When calculating the required number of restricted affordable units, any resulting decimal or fraction shall be rounded to the next larger integer.

~~(g)~~(h) Any restricted affordable unit provided pursuant to the city's below market rate housing program shall be included when determining the number of restricted affordable units required to qualify for a density bonus or other entitlement under this chapter. However, the payment of a housing impact or in lieu fee shall not qualify for a density bonus or other entitlement under this chapter.

~~(h)~~(i) An applicant (or project) shall be ineligible for a density bonus or any other incentives or concessions under this chapter 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 the City'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:

(i) The proposed housing development, inclusive of the units replaced pursuant to this ~~paragraph~~ paragraph, contains affordable units at the percentages set forth in Section 18.15.030.

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

~~(i)~~(j) Certain other types of development activities are specifically eligible for a density bonus pursuant to state law:

(i) A development may be eligible for a density bonus in return for land donation pursuant to the requirements set forth in Government Code Section 65915(g).

(ii) A condominium conversion may be eligible for a density bonus or concession pursuant to the requirements set forth in Government Code Section 65915.5.

(iii) An applicant for a commercial development who has entered into an agreement for partnered housing may be eligible for a density bonus pursuant to the requirements set forth in Government Code Section 65915.7.

~~(j)~~(k) As provided in Section 18.15.080(c), development proposed with rezoning to the Planned Community zone district are entitled to densities approved as part of the rezoning and shall not be entitled to a density bonus in addition to the units entitled by the rezone.

~~(k)~~(l) Notwithstanding any provision of this chapter, all developments must satisfy all applicable requirements of the city's Below Market Rate Housing Program in Chapter 16.65, which may impose requirements for restricted affordable units in addition to those required to receive a density bonus or concessions.

Table 1 summarizes the density bonus provisions described in this Section.

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Table 1  
Density Bonus Summary Table

Restricted Affordable Units (RAUs) or Category	Minimum Percentage of <del>Restricted Affordable Units</del> RAUs	Percentage of Density Bonus Granted	Additional Bonus for Each 1% Increase in <del>Restricted Affordable Units</del> RAUs	<u>Percentage of RAUs Required for 35% Density Bonus</u>	Percentage of <del>Restricted Units</del> RAUs Required for Maximum <del>35%</del> <u>50%</u> Density Bonus
Very Low Income	5%	20%	2.50% <u>(3.75% bonus for increases above 11% RAU)</u>	<u>11%</u>	<del>11%</del> <u>15%</u>
Lower Income	10%	20%	1.50% <u>(3.75% bonus for increases above 20% RAU)</u>	<u>20%</u>	<del>20%</del> <u>24%</u>
Moderate Income	10%	5%	1% <u>(3.75% bonus for increases above 40% RAU)</u>	<u>40%</u>	<del>40%</del> <u>44%</u>
<u>Lower Income Student Housing</u>	<u>20%</u>	<u>35%</u>	-----	-----	-----
Senior Citizen Housing	100%	20%	-----	-----	-----
Qualifying Mobile Park	100%	20%	-----	-----	-----
<u>100% Affordable Units</u>	<u>100%</u>	<u>80% (or no maximum density)</u>	-----	-----	-----

Note: A density bonus may be selected from only one category ~~up to a maximum of 35% of the Maximum Residential Density.~~

**18.15.040 Development Standards for Affordable Units**

[. . .]

**18.15.050 Development Concessions and Incentives**

This section includes provisions for providing concessions or incentives pursuant to Government Code Section 65915.

(a) By right parking incentives. Upon request by the applicant, a development that is eligible for a density bonus may provide parking as provided in this subsection (a),

consistent with Government Code Section 65915(p), inclusive of ~~handicapped and guest parking~~ for persons with a disability and guests:

- (i) Zero to one bedroom unit: one on-site parking space;
- (ii) Two to three bedroom unit: ~~two~~ one and one-half on-site parking spaces;
- (iii) Four or more bedroom unit: two and one-half parking spaces.

If the total number of spaces required results in a fractional number, it shall be rounded up to the next whole number. For purposes of this subsection, this parking may be provided through tandem parking or uncovered parking, but not through on-street parking.

(b) Additional parking incentives for transit oriented project.

(i) For purposes of this subdivision, 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. For purposes of this subdivision, "natural or constructed impediments" includes, but is not limited to, freeways, rivers, mountains, and bodies of water, but does not include residential structures, shopping centers, parking lots, or rails used for transit.

~~\_\_\_\_\_ (A) Notwithstanding paragraph subdivision (a) above, if a development includes the maximum percentage at least twenty percent (20%) of low-income or at least eleven percent (11%) of very low income units provided for in section 18.15.030(b)(a)(i) or (ii), and is located within one-half mile of a major transit stop, as defined in subdivision (o) of Section 65915 of the Government Code 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 request of the applicant, the city shall not impose a vehicular parking ratio, inclusive of handicapped and guest parking for persons with a disability and guests, that exceeds 0.5 spaces per bedroom unit. For purposes of this subdivision, a development shall have unobstructed access to a major transit stop if a request is able to access the major transit stop without encountering natural or constructed impediments.~~

(ii) Notwithstanding ~~paragraph~~ subdivision (a) above, if a development consists solely of rental units, exclusive of a manager's unit, 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 applicant, the city shall not impose ~~a~~ vehicular parking standards if the development meets one of the following criteria ~~ratio, inclusive of handicapped and guest parking, that exceeds the following ratios:~~

(A) ~~If the~~ The development is located within one-half mile of a major transit stop, as defined in subdivision (o) of Section 65915 of the Government Code ~~subdivision (b) of Section 21155 of the Public Resources Code~~, and there is unobstructed access to the major transit stop from the development.

(B) ~~If the~~ 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~~ and the development ~~shall have~~ has either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.

(C) ~~If the~~ The development is either a special needs housing development, as defined in Section 51312 of the Health and Safety Code, or a supportive housing development, as defined in Section 50675.14 of the Health and Safety Code. ~~the ratio shall not exceed 0.3 spaces per unit. The development shall have~~ A development that is a special needs housing development must have either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.

(iii) Notwithstanding paragraphs ~~(i) and (ii)~~ (b)(i), (b)(ii)(A), and (b)(ii)(B), the city may impose a higher vehicular parking ratio not to exceed the ratio described in ~~paragraph~~ subdivision (a) if the city has conducted an area wide or citywide parking study in compliance with Government Code Section 65915(p)~~(7)~~(8).

(c) Other incentives and concessions. A development is eligible for other concessions or incentives as follows:

(i) One concession or incentive for a development that makes at least ten percent (10%) of the total dwelling units affordable to lower income households; or at least five percent (5%) of the total dwelling units affordable to very low income households; or at least ten percent (10%) of the total dwelling units affordable to moderate income households in a ~~common interest~~ development in which the units are for sale; or at least twenty percent (20%) of the total units in a student housing development for low income students, as provided for in 18.15.030(c).

(ii) Two concessions or incentives for a development that makes at least ~~twenty~~ seventeen percent ~~(20%)~~(17%) of the total dwelling units affordable to lower income households; or at least ten percent (10%) of the total dwelling units affordable to very low income households; or at least twenty percent (20%) of the total dwelling units affordable to moderate income households in a ~~common interest~~ development in which the units are for sale.

(iii) Three concessions or incentives for a development that makes at least ~~thirty~~ twenty-four percent ~~(30%)~~(24%) of the total dwelling units affordable to lower income

households; or at least fifteen percent (15%) of the total dwelling units affordable to very low income households, or at least thirty percent (30%) of the total dwelling units affordable to moderate income households in a ~~common interest~~ development in which the units are for sale.

(iv) Four concessions or incentives for a development that provides one hundred percent (100%) of the total units, exclusive of a manager’s unit or units, are for lower income households, as described in Section 18.15.030, subdivision (d). Such development may additionally receive a height increase of three stories or thirty-three (33) feet.

Table 2 summarizes the provisions of Concessions or Incentives described in subsection (a).

Table 2  
Concessions and Incentives Summary Table

Target Group	Restricted Affordable Units		
	5%	10%	15%
Very Low Income	5%	10%	15%
Lower Income	10%	<del>20%</del> 17%	<del>30%</del> 24%
Moderate Income ( <del>Common Interest Development</del> <u>Applicable to For-Sale Units Only</u> )	10%	20%	30%
<u>Lower Income Student Housing</u>	<u>20%</u>	---	---
Maximum Incentive(s)/Concession(s)	1	2	3

Notes:

1. Concessions or incentives may be selected from only one category (very low, lower, ~~or moderate, low income student development~~)
2. No concessions or incentives are available for land donation, or for senior citizen housing developments and qualifying mobilehome parks that do not contain restricted affordable units.
3. In a student development, a “unit” is defined according to 18.15.030(c)(ii).

[. . .]

(g) Nothing in this chapter shall be construed to require the provision of direct financial concessions for the development, including the provision of publicly owned land by the city or the waiver of fees or dedication requirements.

**18.15.060 Waiver/Modification of Development Standards**

An applicant may apply for a waiver or modification of development standards that will have the effect of physically precluding the construction of a development at the densities or with the concessions or incentives permitted by this chapter. The developer

must demonstrate that development standards that are requested to be waived or modified will have the effect of physically precluding the construction of a development meeting the criteria of subsection (a) of Section 18.15.030 at the densities or with the concessions or incentives permitted by this chapter. A development that receives a waiver from any maximum controls on density pursuant to Section 18.15.030(d)(2) shall not be eligible for waivers or modifications to development standards pursuant to this Section.

#### **18.15.070 Child Care Facilities**

[. . .]

#### **18.15.080 Application Requirements**

An Application for a density bonus, incentive, concession, waiver, modification or revised parking standard shall be made as follows:

(a) ~~An~~ All applications for a density bonus, incentive, concession, waiver, modification or revised parking standard shall be submitted with the first application for a discretionary permit for a development and shall be processed concurrently with those discretionary permits. The application shall be on a form prescribed by the city and shall include the following information:

(i) A brief description of the proposed development, including the total number of dwelling units, restricted affordable units, and density bonus units proposed.

(ii) The zoning and comprehensive plan designations and assessor's parcel number(s) of the project site, and a description of any density bonus, concession or incentive, waiver or modification, or revised parking standard requested

(iii) A vicinity map and preliminary site plan, drawn to scale, including building footprints, driveway and parking layout.

(iv) Site plan showing location of market-rate units, restricted affordable units, and density bonus units within the proposed development;

(v) level of affordability of the restricted affordable units and proposed method to ensure affordability;

(b) If a concession or incentive is requested, the following information must be included in the application:

~~(iv)(i) If a concession or incentive is requested, a~~ A brief explanation as to the actual cost reduction achieved through the concession or incentive.

(ii) For concessions and incentives that are not included within the menu of incentives/concessions set forth in subsection (c) of Section 18.15.050, the application requires the submittal of the project proforma or other comparable documentation (referred to herein as the “proforma information”) to the Director, providing evidence that the requested concessions and incentives result in identifiable and actual cost reductions. The cost of reviewing the project proforma information, including, but not limited to, the cost to the city of hiring a consultant to review the financial data, shall be borne by the applicant. The proforma information shall include all of the following items:

(A) The actual cost reduction achieved through the concession;

(B) Other information requested by the Planning Director. The Planning Director may require additional information as is required to evaluate the proforma information;

(c) If a waiver or modification of development standards is requested, the following information must be included in the application:

~~(v)(i) If a waiver or modification is requested, a~~ A brief explanation of why the development standard would physically preclude the construction of the development with the density bonus, incentives, and concessions requested.

~~(vi) Site plan showing location of market-rate units, restricted affordable units, and density bonus units within the proposed development;~~

~~(vii) level of affordability of the restricted affordable units and proposed method to ensure affordability;~~

~~(viii) For concessions and incentives that are not included within the menu of incentives/concessions set forth in subsection (c) of Section 18.15.050, the application requires the submittal of the project proforma or other comparable documentation (referred to herein as the “proforma information”) to the Director, providing evidence that the requested concessions and incentives result in identifiable and actual cost reductions. The cost of reviewing the project proforma information, including, but not limited to, the cost to the city of hiring a consultant to review the financial data, shall be borne by the applicant. The proforma information shall include all of the following items:~~

~~(A) The actual cost reduction achieved through the concession;~~

~~(B) Other information requested by the Planning Director. The Planning Director may require additional information as is required to evaluate the proforma information;~~

~~(ix)(ii) If a waiver or modification of a development standard is requested, the applicant shall provide evidence~~ Evidence that the development standard for which the waiver or modification is requested will have the effect of physically precluding the construction of the development with the density bonus and concessions requested;



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

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

~~(xii)(f)~~ If a density bonus or concession is requested for a condominium conversion, the applicant shall provide evidence that all of the requirements found in Government Code Section 65915.5 can be met.

~~(b)(g)~~ In accordance with state law, neither the granting of a concession, incentive, waiver, modification, or revised parking standard, nor the granting of a density bonus, shall be interpreted, in and of itself, to require a general plan amendment, zoning change, variance, or other discretionary approval.

~~(e)(h)~~ The Planned Community (PC) zone district is intended to accommodate developments requiring flexibility under controlled conditions not attainable under other zoning districts. Because of the flexible nature of the PC zone, which determines site specific requirements including density, the chapter does not apply to this zoning district.

~~(d)(i)~~ This chapter implements state density bonus law. Any density bonus, incentive, concession, revised parking standard, waiver, or modification sought by an applicant shall be made pursuant to this chapter and may not be combined with similar requests under state density bonus law.

#### **18.15.090 Review Procedures**

An application for a density bonus, incentive, concession, waiver, modification or revised parking standard shall be acted upon by the Approval Authority concurrently with the application for the first Discretionary permit. The granting of a density bonus shall not be deemed approval of the entire Project or approval of any subsequent discretionary permit.

[ . . . ]

(c) If the findings required by subsection (a) of this Section cannot be made, the Approval Authority may deny an application for a concession, incentive, waiver or

modification only if it makes one of the following written findings, supported by substantial evidence:

(i) ~~The concession, incentive, waiver or modification is not~~ concession or incentive does not result in identifiable and actual cost reductions required to provide for affordable rents or affordable sales prices; or

[. . .]

(d) If the Approval Authority is not the City Council, any decision denying a density bonus, incentive, concession, waiver, modification or revised parking standard may be appealed to the City Council within fourteen days of the date of the decision.

**18.15.100 Regulatory Agreement**

(a) ~~Applicants~~ Applicants for a density bonus, incentive, concession, waiver, modification or revised parking standard shall enter into a regulatory agreement with the city. The terms of the draft agreement shall be approved as to form by the City Attorney and reviewed and revised as appropriate by the Director of Planning and Development Services, who shall formulate a recommendation to the Approval Authority for final approval.

[. . .]

**SECTION 3.** Any provision of the Palo Alto Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

**SECTION 4.** If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

**SECTION 5.** The Council finds that the adoption of this ordinance is exempt from the provisions of the California Environmental Quality Act pursuant to CEQA Guideline sections 15061(b)(3) because the ordinance simply codifies existing state law and it can be seen with certainty that the minor adjustments herein will have a significant effect on the environment. Any project seeking to utilize the density bonus provisions herein will be subject to appropriate environmental review.

**SECTION 6.** This ordinance shall be effective on the thirty-first date after the date of its adoption.

INTRODUCED:

PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

NOT PARTICIPATING:

ATTEST:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

APPROVED AS TO FORM:

APPROVED:

\_\_\_\_\_  
Assistant City Attorney

\_\_\_\_\_  
City Manager

\_\_\_\_\_  
Director of Planning & Development  
Services

Ordinance No. \_\_\_\_\_

Ordinance of the Council of the City of Palo Alto Amending Chapter 18.52 (Parking and Loading Requirements) of Title 18 (Zoning) of the Palo Alto Municipal Code (PAMC) to Update Parking Requirements in Compliance with Measures Promoting the Construction of Affordable Housing.

The Council of the City of Palo Alto ORDAINS as follows:

**SECTION 1.** Findings and declarations. The City Council finds and declares as follows:

- A. On September 28, 2020, the Governor approved AB 1851, which prohibits local authorities from requiring the replacement of religious-use parking spaces that a developer of a religious institution affiliated housing development project proposes to eliminate as part of that housing development project.
- B. For developments receiving density bonuses, the parking requirements described in Chapter 18.52 of the Palo Alto Municipal Code may be modified or superseded by Chapter 18.15 of the Palo Alto Municipal Code, governing density bonuses.
- C. The City Council is therefore updating the parking requirements in Title 18 of the Palo Alto Municipal Code to comply with AB 1851 and to make reference to Chapter 18.15 of the Palo Alto Municipal Code.

**SECTION 2.** Section 18.52.040 (Off-Street Parking, Loading and Bicycle Facility Requirements) of Chapter 18.52 (Parking and Loading Requirements) of Title 18 (Zoning) is hereby amended as follows:

**18.52.040 Off-Street Parking, Loading and Bicycle Facility Requirements**

(a) Parking Requirements

In each district, off-street parking, loading and bicycle facilities for each use shall be provided in accordance with Tables 1 and 2, shown in subsection (c) of this Section 18.52.040. For affordable housing developments qualifying for density bonuses under Chapter 18.15 of the Palo Alto Municipal Code, adjustments to parking requirements will be calculated in accordance with Chapter 18.15. The requirement for any use not specifically listed shall be determined by the director on the basis of requirements for similar uses, and on the basis of evidence of actual demand created by similar uses in Palo Alto and elsewhere, and such other traffic engineering or planning data as may be available and appropriate to the establishment of a minimum requirement.

[. . .]

**SECTION 3.** Section 18.52.045 (Minor Adjustments to Existing Parking Facilities) of Chapter 18.52 (Parking and Loading Requirements) of Title 18 (Zoning) is hereby amended as follows:

**18.52.045 Minor Adjustments to Existing Parking Facilities**

(a) The following minor adjustments may be made to existing parking facilities that are intended to remain in substantially the same form after restriping.

~~(a)~~(1) Accessibility and EVSE-related equipment.

For sites with existing development, the number on-site parking spaces may be reduced to the minimum extent necessary to: (1) achieve state or federally mandated accessibility requirements or (2) permit installation of electrical utility equipment required for EVSE. A maximum of 10% of the existing automobile parking stalls, or one stall, whichever is greater, may be removed pursuant to this section. The loss of a parking space is not permitted to accommodate EVSE itself. To the extent reasonably feasible, electrical equipment required for EVSE shall be placed in a location that minimizes visibility from the public right-of-way.

~~(b)~~(2) Substitution of bicycle parking.

For sites with existing development, where additional bicycle parking facilities cannot reasonably be located outside of the parking facility area, existing automobile parking stalls may be substituted with long- or short-term bicycle parking facilities. The maximum number of substitutions shall be two existing automobile parking spaces, or 10% of the existing automobile parking stalls, whichever is greater. A minimum of four long-term or eight short-term bicycle parking spaces is required per automobile parking space. The bicycle parking spaces are to be located in the same physical location as the automobile spaces they are replacing, which shall be near primary entries of the building on-site or in locations that meet best practices for bicycle parking facilities.

(b) Substitution of religious-use parking for housing development projects.

(1) This subdivision applies to religious institution affiliated housing development projects, as defined by Section 65913.6(a)(5) of the California Government Code.

(2) The developer of a religious institution affiliated housing development project is not required to replace religious-use parking spaces which the developer eliminates as a part of that housing development project. Such a reduction may not exceed fifty percent (50%) of the number of religious-use parking spaces that are available at the time the request is made.

(3) Religious-use parking spaces may count towards parking spaces required for the religious institution affiliated housing development project if:

(A) There is at least one space per unit,

(B) The parcel is within one-half mile walking distance of public transit, or

(C) There is a car share vehicle located within one block of the parcel.

**SECTION 4.** Any provision of the Palo Alto Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

**SECTION 5.** If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

**SECTION 6.** The Council finds that the adoption of this ordinance is exempt from the provisions of the California Environmental Quality Act pursuant to CEQA Guideline sections 15061(b)(3) because the ordinance simply codifies existing state law and it can be seen with certainty that there is no possibility that the codification of such parking regulations will have a significant effect on the environment. Any project seeking to utilize the parking substitution provisions herein will be subject to appropriate environmental review.

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**SECTION 7.** This ordinance shall be effective on the thirty-first date after the date of its adoption.

INTRODUCED:

PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

NOT PARTICIPATING:

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Assistant City Attorney

\_\_\_\_\_  
Mayor

APPROVED:

\_\_\_\_\_  
City Manager

\_\_\_\_\_  
Director of Planning & Development  
Services