

ORDINANCE NO. 648

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUDAHY, CALIFORNIA, AMENDING THE CUDAHY MUNICIPAL CODE TO ADD CHAPTER 20.110 TO TITLE 20 (ZONING) TO PROVIDE AND REGULATE RESIDENTIAL DENSITY BONUSES

WHEREAS: the State Density Bonus Law (California Government Code sections 65915 et seq.) encourages the production of affordable housing, senior housing, and child care facilities; and

WHEREAS: the State Density Bonus Law mandates awards of increased residential density over the otherwise maximum density and favorable development standards to those housing development projects that set aside units as affordable and meet other specified criteria; and

WHEREAS: all cities must adopt an ordinance that implements the State Density Bonus Law; and

WHEREAS: the City's General Plan Housing Element and Land Use Element describe the need for affordable housing, and density bonuses are expected to be an important planning tool to provide for the City's existing and future housing needs; and

WHEREAS: State law allows density increases greater than 35 percent, but only where "permitted by local ordinance"; and

WHEREAS: the City seeks to enhance the public welfare and promote the goals and objectives of the General Plan by establishing incentives for the production of affordable housing, and establishing standards and findings for approval that accord with State law; and

WHEREAS: on Monday, June 15 2015, following proper notice and public hearing, the City Planning Commission adopted Resolution No. PC-15-08, recommending that the City Council adopt an ordinance adding Chapter 20.110 to the Municipal Code regarding residential density bonuses; and

WHEREAS: the City Council has considered evidence presented by the Planning Commission, City Staff and the public at a duly noticed public hearing.

NOW, THEREFORE, THE CITY COUNCIL OF CUDAHY, CALIFORNIA DOES FIND AND ORDAIN AS FOLLOWS:

SECTION 1: City Council held a first reading of Ordinance No. 648 and opened the public hearing on July 13, 2015 to consider the Density Bonus. All evidence, both written and oral, presented during said public hearing was considered by the City Council in making its determination, and

A public hearing was held before City Council on of the City of Cudahy on July, 27 2015, to consider the Density Bonus. All evidence, both written and oral, presented during the July 13, 2015, first reading, and public hearing was considered by the City Council in making its determination.

SECTION 2: A record of the public hearing indicated that the City Council of the City of Cudahy hereby finds and determines as follows: Chapter 20.110 is hereby added to Title 20 (Zoning) of the Cudahy Municipal Code to read:

Chapter 20.110
RESIDENTIAL DENSITY BONUS

Sec. 20.110.010. – Purpose and intent.

This chapter implements the state density bonus law (California Government Code section 65915 et seq.), as may be amended, and is intended to provide incentives for the production of affordable housing, senior housing, and child care facilities. State law shall prevail over any conflicting provision of this chapter.

Sec. 20.110.020. – Rules and procedures.

The director may promulgate rules and procedures that are consistent with the provisions and intent of this chapter.

Sec. 20.110.030. – Density bonus.

(1) A housing development project that satisfies the requirements of both state law and this chapter shall be eligible to receive a density bonus, concessions, and vehicular onsite parking standards in accordance with the state density bonus law.

(2) The definitions found in the state density bonus law shall apply to the terms contained herein.

“Concession” shall have the same meaning as “concession or incentive.”

“Set-aside unit” or “affordable unit” means a dwelling unit restricted pursuant to this chapter to qualify the project for a density bonus.

Sec. 20.110.040. – Fractional units.

In determining the maximum residential density allowed under the zoning code for the purpose of this chapter, any fraction of a unit shall not be counted. In calculating density bonuses and set-aside units, fractions shall be rounded up to the next whole number.

Sec. 20.110.050. – Menu of concessions.

A project that qualifies under this chapter may request concessions from the menu in Table A.

Table A

Concession	Modification of Standard
Building Height	Up to 10 feet
Yard	Up to 20 percent
Common Open Space	Up to 20 percent
Private Open Space	Up to 20 percent
Fee (e.g. plan check, construction permit, or development impact)	Reduced or deferred fee

Sec. 20.110.060. – Off-menu concessions.

The city or applicant may propose concessions that result in identifiable, financially sufficient, and actual cost reductions, which proposal shall be considered and approved or denied by the Planning Commission, supported by written findings in accordance with the state density bonus law. The city may, at its discretion, require the applicant to demonstrate that the proposed concession or other waiver of a development standard is needed to make the affordable units economically feasible.

Sec. 20.110.070. – Density bonus greater than 35 percent.

A conditional use permit approved by both the planning commission and city council shall be required for any density bonus greater than 35 percent. The city has the authority but no obligation to grant a density bonus in excess of 35 percent. For requests under this section, the city may consider benefits of the project and other factors, including, without limitation: (i) additional affordable units; (ii) on-site amenities; (iii) services for residents; and (iv) the distance to neighborhood services. In addition to the findings required in Section 20.44.070 (conditional use permit), the following findings must be met:

- (1) The project is consistent with the affordable housing provisions of the General Plan.
- (2) The project sets aside no less than the percentage and type of units required to earn a density bonus of 35 percent under the state density bonus law.
- (3) The applicant has adequately demonstrated that the project will not generate unmitigated significant noise, traffic, parking, or other impacts detrimental to surrounding properties or the general welfare.

Sec. 20.110.080. – Application.

The following information shall be included with the first application required for the housing development project:

- (a) A description of the proposed project, including the number of dwelling units, set-aside units and density bonus units, and the calculations that explain the results.
- (b) The basis on which the project qualifies for a density bonus.
- (c) A site plan showing building footprints, locations of set-aside units, driveway and parking layout, and the location and floor area of any proposed child care facility.
- (d) A description of the concessions requested. In the case of proposed off-menu concessions, demonstrate that they are within the definition of a concession and accord with the state density bonus law. The director may require an independent financial review at the applicant's expense to demonstrate the economic effect of the proposed concession on the project.

- (e) If the density bonus request is based on a land donation, the application shall identify the land to be transferred, and demonstrate that the applicable conditions of the state density bonus law are met.
- (f) Other relevant information required by the director.

Sec. 20.110.090. – Decision and appeal.

- (1) A request for a density bonus pursuant to this chapter shall be reviewed as part of the first required housing development application and shall be considered and acted upon by the decision-making body authorized to make a recommendation or approve the housing development.
- (2) A decision involving a density bonus shall be supported by written findings in accordance with the state density bonus law, including whether the project meets the qualifications for a density bonus.
- (3) Any decision regarding a density bonus may be appealed in the manner and within the time set forth in Chapter 20.20 – Appeals.

Sec. 20.110.100. – Recorded agreement.

- (1) The execution of a density bonus housing agreement with the city in a form approved by the city attorney shall be a condition of the discretionary project approval or ministerial building permit. The agreement shall be a covenant that runs with the land and binds the owner and successors and assigns. The agreement shall be recorded prior to building permit issuance, or, in the case of a subdivision, prior to final map approval.
- (2) Provisions of the density bonus housing agreement may include, without limitation, the following:
 - (a) The number of set-aside units, their floor area, number of bedrooms, location, and production schedule.
 - (b) Ensure continued affordability of set-aside units for the requisite period.
 - (c) Standard or index to establish maximum rent or sales price of affordable units.
 - (d) Restrict rentals or sales of affordable units to persons and families of qualifying income levels and set forth the procedure to certify incomes.
 - (e) Prohibit occupants from renting or subletting an affordable unit.

- (f) Control the resale of condominium set-aside units to provide for the recapture of any initial subsidy and any required equity-sharing payment to the city from the sale proceeds.
- (g) Specify requirements applicable to a child care facility, including floor area, percentage of patrons from qualifying income level families, and financial or other guarantee of continued operation for the mandated period.
- (h) Specify residency restrictions applicable to a senior citizen housing development or mobilehome park.
- (i) Require compliance with state law, this chapter, and all other applicable regulations.
- (j) Set forth monitoring and reporting procedures, penalties, and enforcement mechanisms, such as a deed of trust to secure performance of obligations.

SECTION 2: In accordance with Municipal Code section 20.16.100, the City Council finds that the amendment is consistent with the objectives of the zoning code and the City of Cudahy General Plan. The zoning code contemplates residential uses in various zones throughout the city consistent with the Land Use Map (Exhibit 2-2) of the General Plan. Density bonuses rely on and work in conjunction with residential zoning. The amendment is consistent with General Plan policies, which expressly contemplate density bonuses: "The City of Cudahy will provide density bonuses for low-income housing projects and senior citizen housing projects." (Housing Element Policy 5.8.) Also, the General Plan identifies density bonuses among the Development Controls to implement its residential goals and policies. (Land Use Element section 2.3.3.)

SECTION 3: Adoption and implementation of this ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines (Cal. Code Regs. title 14) section 15061(b)(3) (certain to have no significant effect on the environment), because the ordinance implements State law and policy, and it is not reasonably foreseeable what projects might be proposed, so there can be no meaningful analysis of environmental impacts. (Id. § 15064(d).) Specific density bonus projects will each be subject to CEQA.

SECTION 4: This ordinance shall supersede any inconsistent provision of the Municipal Code to the extent of such inconsistency and no further.

SECTION 5: Should any provision of this ordinance be determined to be invalid or unconstitutional, all other provisions shall remain in full force and effect as approved.

SECTION 6: This ordinance shall take effect 30 days after its passage pursuant to California Government Code section 36937.

SECTION 7: The City Clerk shall attest to the adoption of this ordinance and shall cause the same to be published in the manner prescribed by law.

SECTION 8: Based on the aforementioned, the City of Cudahy Planning Commission hereby recommends approval of Ordinance No. 648 by Resolution PC-15-08.

PASSED, APPROVED AND ADOPTED this 27th day of July, 2015.



Cristian Markovich, Mayor

ATTEST:



Jessica Balandran
Acting Deputy City Clerk

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS
CITY OF CUDAHY.)

I, Jessica Balandran, Deputy City Clerk of the City of Cudahy, hereby certify that Ordinance 648 was introduced at a regular meeting of the City Council of the City of Cudahy on the 13th day of July, 2015, and adopted and passed at a regular meeting of the City Council of the City of Cudahy held on the 27th day of July, 2015, by the following vote:

AYES: Councilmember (s): Garcia, Guerrero, Sanchez, Vice Mayor Hernandez, and Mayor Markovich
NOES: Councilmember (s): None
ABSTAIN: Councilmember (s): None
ABSENT: Councilmember (s): None

Jessica Balandran

Jessica Balandran
Acting Deputy City Clerk

