

## **Gonzalez, Ca Municipal Code: Affordable and Inclusionary Housing**

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### Title 12 Zoning Regulations

#### Chapter 12.48 Inclusionary Housing

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### **Title 12 Zoning**

#### **Chapter 12.48 Inclusionary Housing**

##### **12.48.010: AUTHORITY AND PURPOSE:**

This chapter is enacted pursuant to the provisions of California Government Code section 65915. The purpose of this chapter is to encourage developers of otherwise market rate housing to include affordable units or senior housing units within their proposed projects through consideration of a density bonus over the otherwise maximum permissible number of units. The density bonus would operate to increase the number of units for a site so that the per unit cost of construction may be reduced, with the savings passed on in the form of affordable housing for a portion of the project. (Ord. 2000-03, 8-7-2000)

##### **12.48.020: DEFINITIONS:**

For the purpose of this chapter, certain terms used herein are defined as follows:

**AFFORDABLE HOUSING PROJECT:** A proposed residential project with twenty percent (20%) of its units/lots affordable to low income households or ten percent (10%) of its units/lots affordable to very low income households as determined without counting bonus units.

**BONUS UNIT:** Residential lots or units above the otherwise maximum allowable residential density set forth in the land use element of the city of Gonzales general plan and the city zoning regulations.

**DENSITY BONUS:** As defined in California Government Code section 65915(f).

**INCENTIVE:** Regulatory and/or financial concessions, grants, refunds, or waivers which reduce or avoid project costs.

**QUALIFYING PROJECT:** A residential development project consisting of five (5) or more lots (for subdivision project) or units (for nonsubdivision projects), in which at least twenty percent (20%) of the total units are affordable to low income households, or, at least ten percent (10%) of the total units are affordable to very low income households, or, at least fifty percent (50%) of the total units are senior housing pursuant to California Civil Code section 51.2. The "total units" does not include any bonus units requested under this chapter.

**RESTRICTED UNIT:** A residential lot (for subdivision projects) or unit (for nonsubdivision projects) which is affordable to very low or low income households as defined in the housing element of the city of Gonzales general plan and approved pursuant to this chapter. (Ord. 2000-03, 8-7-2000)

**12.48.030: DENSITY BONUS ENTITLEMENT:**

- A. Incentives Described: Incentives consist of regulatory concessions including, but not limited to, reduction in development standards or modification of zoning, or other development requirements. Incentives may also consist of financial concessions, grants, refunds, and waivers that reduce or avoid project costs.
- B. Demonstrate Necessity: Developers requesting incentives must demonstrate how the incentive is necessary to provide an affordable housing project under statute, that is, to provide twenty percent (20%) of the units as affordable to low incomes or ten percent (10%) of the units as affordable to very low incomes. The city may decline to grant incentives upon a written finding supported by factual documentation that the incentive is not necessary to provide an affordable housing project. A project which proposes to provide more than twenty percent (20%) low income housing or more than ten percent (10%) very low income housing is presumed not to need additional incentives to provide an affordable housing project.
- C. City List Of Incentives: The city council shall prepare and maintain a list of regulatory, financial, and other incentives that the city will consider. Developers may consult this list when preparing their project applications.
- D. City Limitations: The city will not provide equivalent financial incentives instead of a density bonus. (Ord. 2000-03, 8-7-2000)

**12.48.040: APPLICATION FOR DENSITY BONUS:**

- A. Subdivision Projects: For subdivision projects, the density bonus shall be requested and reviewed as part of the tentative map project application. For nonsubdivision projects, the density bonus shall be requested and reviewed through a conditional use permit application.

- B. Demonstrate As Qualifying Project: In addition to the materials normally required for a tentative map or conditional use permit application, the applications shall clearly identify the restricted units and shall contain information sufficient to demonstrate that the project is a qualifying project.
- C. List Of Supplemental Application Materials: The planning director shall prepare and maintain a list of supplemental application materials for density bonus requests under this title which materials shall be submitted together with and as part of the project applications.
- D. Separate Land Use Application: If the requested incentives require a separate land use application, such as a variance or conditional use permit, the required application shall be submitted with the project application for concurrent processing.
- E. Project Costs: Developers requesting incentives shall specify the incentives and shall clearly indicate how the incentive is necessary to ensure that the project will provide a reasonable economic return while still allowing restricted units to be affordable as required by this title. At a minimum, the application shall include an itemized accounting of projected costs and revenues of the development, both with and without the incentives. Project revenues shall include monies from the sale or rental of all units, including the bonus units. Project costs shall not include the "lost opportunity" cost of the restricted units, i.e., the amount that would have been generated had the restricted units been rented or sold at market rate. Project costs may include items that are required solely as a result of the inclusion of the bonus units and would not have been required without such units.
- F. Independent Analysis: The planning director may direct, at the applicant's expense, that an independent analysis be conducted of the project's costs, revenues, and property value in order to determine the necessity for any requested density bonus and/or incentive.
- G. City Authority: The city may accept, modify or recommend different incentives than those requested so long as the recommended incentive has the effect of reducing development standards or requirements or reduces or avoids costs to the developer. The city may disapprove the requested incentives subject to the finding set forth in section [12.48.030](#) of this chapter. (Ord. 2000-03, 8-7-2000)

**12.48.050: DEVELOPMENT STANDARDS FOR RESTRICTED UNITS:**

- A. Restricted units shall be representative of the project as a whole, for example, with comparable lot size, bedroom mix and amenities.
- B. Restricted units shall be distributed throughout the project rather than concentrated in one portion of the project.

C. For sale restricted units shall be owner occupied; no renting or leasing shall be allowed. (Ord. 2000-03, 8-7-2000)

**12.48.060: MAINTAINING AFFORDABILITY:**

Approvals under this chapter shall run with the land and shall be binding on future owners and/or renters of the restricted units. With recordation of a final map for subdivision projects, or prior to issuance of the first building permit for nonsubdivision projects, the developer shall record deed restrictions in favor of the city which subject the restricted units to the provisions of this title for a period of thirty (30) years, or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program. If the city does not grant at least one additional incentive, the restricted units shall remain affordable for a period of ten (10) years. (Ord. 2000-03, 8-7-2000)

**12.48.070: ACTION BY CITY:**

The city may grant, modify or deny the requested density bonus and/or incentives in accordance with the provisions of this chapter. Any approval must be consistent with the city's general plan and any applicable zoning, subdivision or other development regulations. A density bonus agreement shall be entered into to reflect such approval under this chapter. (Ord. 2000-03, 8-7-2000)

**12.48.080: HOLD HARMLESS AGREEMENT:**

The developer of a qualifying project shall defend, indemnify and hold the city, its officials, officers, and employees harmless from any and all claims of damages or injuries arising from developers obtaining entitlements and permits, developer's construction, maintenance, operation, use or sale of the project, or any act or omission of developer, its officers, employees or agents, and from any and all expenses, liabilities costs and reasonable attorney fees incurred on account of any claims, action, or proceeding brought against the city, its officials, officers, and employees in connection with the project. (Ord. 2000-03, 8-7-2000)

**12.48.090: SEVERABILITY:**

If any section, subsection, clause or phrase of this chapter is for any reason held to be unconstitutional, such decision shall not affect the remaining portions of this chapter. The city council declares that it would have passed this chapter and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more such provisions be declared unconstitutional. (Ord. 2000-03, 8-7-2000)