

**CITY OF WALNUT CREEK  
ORDINANCE NO. 2240**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WALNUT CREEK  
AMENDING TITLE 10 (PLANNING AND ZONING) OF THE WALNUT CREEK  
MUNICIPAL CODE TO UPDATE THE DENSITY BONUS ORDINANCE**

The City Council of the City of Walnut Creek (City) does ordain as follows:

**Section 1. Findings**

1. On March 3, 2009, the City Council of the City of Walnut Creek (City) adopted Ordinance 2076 adding Article 10 (Density Bonus) to Chapter 2, Part III of Title 10 (Planning and Zoning) of the Walnut Creek Municipal Code (hereinafter referred to as the Density Bonus Ordinance or DBO). The DBO established regulations intended to implement Sections 65915-65918 of the California Government Code (hereinafter referred to as State Density Bonus Law or SDBL).
2. A severe housing crisis exists in the state, with the demand for housing outstripping supply. In response, the State of California has adopted various amendments to SDBL further incentivize construction of affordable housing units. As a result, the DBO no longer complies with SDBL.
3. On September 13, 2018, the Walnut Creek Planning Commission held a study session to receive public comments and staff recommendations, and provide input regarding, updates to the DBO.
4. On June 16, 2019, the City Council held a study session to receive comments from the public and the Planning Commission, consider staff's recommendations, and provide direction regarding, updates to the DBO.
5. On January 12, 2022, the California Department of Housing and Community Development (HCD) approved the Regional Housing Needs Allocation (RHNA) Plan adopted by the Association of Bay Area Governments for the 2023-2031 housing element planning period. This plan includes an allocation of 5,805 units for the City, a far greater allocation than any previous housing element period.
6. On January 24, 2023, the City Council adopted the 2023-2031 Housing Element of the General Plan, inclusive of addenda and technical updates dated March 21, 2023 and August 1, 2023.
7. On October 24, 2023, HCD certified the adopted Housing Element including the addenda. The new Housing Element sets forth various new programs and policies to streamline residential project approval, increase housing supply, and meet the City's RHNA for all income levels.

8. Among the new Housing Element programs is Program H-2.R, which states: “The City shall amend the Density Bonus Ordinance to ensure compliance with current state law. In addition to meeting the minimum state requirements, the City will maintain the existing provisions of its Density Bonus Ordinance relating to density bonus benefits that exceed state requirements to encourage the development of affordable housing and housing mobility.” Completion of this program is required by June 30, 2024.
9. On May 9, 2024, the Walnut Creek Planning Commission held a public hearing to consider a recommendation to the City Council regarding the proposed code amendments to the Zoning Ordinance. A public hearing notice was posted for this meeting on April 27, 2024, in the East Bay Times, a newspaper of general circulation. At the hearing, the Planning Commission considered all testimony, reports, and evidence presented to it and included in the record, made findings regarding exemption from the California Environmental Quality Act (“CEQA”) and consistency with the General Plan, Housing Element, and Municipal Code, and by resolution recommended that the City Council adopt the proposed code amendments to the Zoning Ordinance.
10. On June 4, 2024, the City Council held a public hearing to consider introduction of the proposed Zoning Ordinance Amendments (the “Ordinance”) as set forth below. On or before May 25, 2024, a public hearing notice was published for the proposed Ordinance in the East Bay Times, a newspaper of general circulation.
11. The proposed ordinance to update the City’s DBO is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines, because it can be seen with certainty that there is no possibility that the proposed amendments may have a significant effect on the environment. The proposed ordinance would amend the existing DBO to comply with state law, would not expand any physical allowances for development, and would implement the goals, policies and programs of the 2023-2031 Housing Element, which the City also determined, prior to its adoption, to be exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines, because it could be seen with certainty that there is no possibility that the programs of the Housing Element may have a significant effect on the environment. The proposed amendments would implement the adopted housing element program as regulatory action by the City.
12. The proposed amendments are consistent with the goals and policies of the City’s General Plan 2025, including the 2023-2031 Housing Element. Specifically, the proposed amendments are consistent with and further the following General Plan goals, policies and programs (shown in *italics*):

***General Plan 2025:***

*Quality of Life Goal 2: Sustain the community’s quality of life with a vigorous and diverse economy.*

- *Policy 2.8: Maintain a range of high quality housing and affordable workforce housing options.*

The proposed amendments would simplify the DBO, making it easier for developers to understand and for City staff to implement. This will facilitate construction of additional affordable and market-rate housing, which would help sustain the City's economy and quality of life.

*Quality of Life Goal 11: Promote a healthy community.*

- *Policy 11.2: Promote health and fitness for all members of the community through healthy community design.*
- *Action 11.2.1. Encourage pedestrian and bike friendly development and redevelopment that encourages physical activity.*

*Built Environment Goal 1: Encourage housing development that helps to reduce the increase in traffic congestion.*

- *Policy 2.1: Develop flexible policies and regulations that facilitate new housing development.*

*Built Environment Goal 3: Encourage housing and commercial mixed-use development in selected locations that enhances pedestrian access and reduces traffic.*

- *Policy 3.1: Create opportunities for mixed-use developments.*
- *Action 3.1.1: Encourage mixed-use development at and near the Walnut Creek and Pleasant Hill BART Stations*

*Built Environment Goal 6: Maintain and enhance Walnut Creek's thriving Core Area, while keeping the Pedestrian Retail District lively and walkable.*

- *Policy 6.4: Enhance the overall vitality of the Core Area south of Mt. Diablo Boulevard.*
- *Action 6.4.1: Encourage diverse housing options, including mixed-use, higher density developments.*

Density bonus projects in the City have generally been located in the Core Area, which provides greater access to jobs, services and amenities via walking, bicycling, and transit. This compact development pattern produces less traffic congestion per unit than lower-density development in other areas of the City. The proposed amendments would further encourage this pattern by simplifying the DBO, making it easier for developers to understand and for City staff to implement. The proposed amendments would also retain the current flexibility in the DBO that allows developers to obtain a greater density bonus than otherwise available under SDBL.

***2023-2031 Housing Element:***

*Goal H-1: New Housing Development. To provide sufficient housing sites and encourage the availability of housing types for all economic segments of the community consistent with the infrastructure and service capacities of the City.*

- *Policy H-1.1: The City shall provide an adequate supply of residentially zoned land at sufficient densities to accommodate its fair share of the existing and future housing needs, and accommodate any shortfalls caused by loss of sites or reduced density developments.*

Having a DBO that is easily understood by developers and implemented by staff will encourage greater use of density bonuses, thereby helping the City to achieve higher densities and meet its fair share of the Regional Housing Needs Allocation.

- *H-1.5: The City shall advise developers on how to maximize their use of waivers and concessions and provide technical assistance.*

Having a DBO that is easily understood by developers and implemented by staff will help the City to provide better advice and technical assistance to developers on the use of waivers and concessions under SDBL.

- *H-1.7: The City shall streamline the process of obtaining development approvals or incentives/concessions to expedite housing development.*

Having a DBO that is easily understood by developers and implemented by staff will help the City to streamline the process of obtaining development approvals or incentives/concessions under SDBL.

- *H-1.8: The City shall increase training for staff involved in the application and entitlement process on State housing laws (as they exist now and as they change in the future) in order to ensure legal compliance related to the entitlement and approval process to expedite housing development.*

*Goal H-2: Affordable Housing. To facilitate affordable housing opportunities, particularly for Walnut Creek workers, first-time home buyers, and lower-income renters.*

- *Policy H-2.1: The City shall assist in the development of extremely low-, very low-, low-, and moderate-income housing units to the extent financially feasible.*

An updated DBO will facilitate the development of affordable housing for the reasons discussed above, and because affordable units are required to qualify for a density bonus.

- *Policy H-2.2: The City shall encourage innovative housing approaches in the design and ownership of units to increase the availability of affordable housing.*

An updated DBO will encourage innovating housing approaches by facilitating the review and approval of waivers and reductions of the City's development standards for qualifying density bonus projects.

- *Policy H-2.3: The City shall encourage, streamline, and give high priority to housing that is affordable to Walnut Creek workers, first-time home buyers, and lower-income renters.*



An updated DBO will facilitate the development of affordable housing for the reasons discussed above, and because affordable units are required to qualify for a density bonus.

- *Program H-2.R. Amend Density Bonus Ordinance: The City shall amend the Density Bonus Ordinance to ensure compliance with current state law. In addition to meeting the minimum state requirements, the City will maintain the existing provisions of its Density Bonus Ordinance relating to density bonus benefits that exceed state requirements to encourage the development of affordable housing and housing mobility.*

The proposed amendments are necessary to implement Program H-2.R of the City's Housing Element.

*Goal H-4: Removal of Governmental Constraints. Minimize the impact of potential governmental constraints on the maintenance, improvement, and development of housing.*

- *Policy H-4.2: The City shall continue to facilitate the review of development applications, encourage pre-application meetings with planning and building staff, and streamline the overall planning application and building process for all residential development.*

Having a DBO that is easily understood by developers and implemented by staff will help the City to streamline the process of obtaining development approvals or incentives/concessions under SDBL.

13. Based on the entirety of the record before it, which includes, without limitation, the California Environmental Quality Act, Public Resources Code §21000, et seq. and the CEQA Guidelines, 14 California Code of Regulations §15000, et seq. (collectively, "CEQA"); the Walnut Creek General Plan; the Walnut Creek Municipal Code; the Planning Commission's duly noticed May 9, 2024 public hearing; the City Council's duly noticed June 4, 2024 public hearing; all reports, minutes, and public testimony submitted as a part thereof; and any and all other evidence (within the meaning of Public Resources Code §21080(e) and §21082.2), the City Council of the City of Walnut Creek further finds that:
  - a. The documents and other material constituting the record for these proceedings are located at the Community Development Department for the City of Walnut Creek, 1666 North Main Street, Walnut Creek, CA 94596, and in the custody of the Community Development Director.
  - b. The proposed Ordinance to update the City's DBO is consistent with the Walnut Creek General Plan and the Walnut Creek Municipal Code.
  - c. The health, safety, welfare, and general prosperity of the residents of the City of Walnut Creek will be served by adoption of this proposed Ordinance as it will

complete a required action of the adopted 2023-2031 Housing Element, and streamline the review process for affordable housing in the City, which will help provide additional housing opportunities for Walnut Creek workers and lower-income renters.

## **Section 2. CEQA Exemption**

The proposed ordinance to update the City's DBO is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines, because it can be seen with certainty that there is no possibility that the proposed amendments may have a significant effect on the environment. The proposed ordinance would amend the existing DBO to comply with state law, would not expand any physical allowances for development. The proposed amendments are regulatory actions of the City only, and are taken in order to maintain consistency with state law. The proposed ordinance would implement the goals, policies and programs of the 2023-2031 Housing Element, which the City also determined, prior to its adoption, to be exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines, because it could be seen with certainty that there is no possibility that the programs of the Housing Element may have a significant effect on the environment. The proposed amendments would implement the adopted housing element program as a regulatory action by the City.

## **Section 3. Amendments to Chapter 2, Title 10 (Zoning Ordinance)**

### **Part 1. Amending Definitions**

Section 10-2.1.303 (70) of the Walnut Creek Municipal Code (Definitions) is hereby amended in its entirety and restated to read as follows. Sections, subsections, paragraphs, definitions and texts that are not amended by this Ordinance are not included, and shall remain in full force and effect.

70. ***Density Bonus***: An increase over the otherwise maximum allowable residential density under the applicable land use element of the City's General Plan, any applicable specific plan, and Zoning Ordinance on the date the application is submitted to the City, as defined in Government Code Section 65915(g). "Density bonus" includes both a density bonus and any additional density bonus as provided in the State Density Bonus Law.

- a. ***State Density Bonus Law***: Sections 65915 through 65918 of the California Government Code, or successor provisions, as such law may change from time to time.
- b. ***Restricted Unit***: A dwelling unit that will be offered for rent or sale exclusively to and which shall be affordable to the designated income group or qualified resident, as required by Article 10 of Part III of Chapter 2 of this Title and State Density Bonus Law.

### **Part 2. Amending Density Bonus Ordinance**

Part III, Article 10 of the Walnut Creek Zoning Ordinance (Density Bonus Ordinance) is hereby amended in its entirety and restated to read as follows. Sections, subsections, paragraphs,

definitions and texts that are not amended by this Ordinance are not included, and shall remain in full force and effect.

### **Article 10. Density Bonus Ordinance**

#### ***Sec. 10-2.3.1001. Purpose.***

The purpose of this chapter is to provide incentives for the production of housing for extremely low income, very low income, low income, and moderate income households, senior citizens, transitional foster youth, disabled veterans, homeless persons, and low income college students, in accordance with Government Code Sections 65915-65918 (State Density Bonus Law). In enacting this chapter, the City's intent is to facilitate the development of affordable housing and to implement the goals, policies, and actions of the housing element of the City's General Plan.

#### ***Sec. 10-2.3.1002. Title.***

This Article shall be known and cited as the "Density Bonus Ordinance of the City of Walnut Creek" or "Density Bonus Ordinance."

#### ***Sec. 10-2.3.1003. Density Bonus Entitlement and Incentives.***

A. The City shall grant a Density Bonus and one or more incentives or concessions to any Housing Development consisting of five or more Dwelling Units, as and to the extent required pursuant to Section 65915 of the State Density Bonus Law.

B. The City shall grant a Density Bonus or other incentives of equivalent financial value to applicants for approval to convert apartments to a condominium project, as and to the extent required pursuant to Section 65915.5 of the State Density Bonus Law.

C. A Developer may seek approval of a Conditional Use Permit for additional bonus units that exceed the maximum Density Bonus available under the State Density Bonus Law. If the City grants and the Developer accepts such additional bonus units, the additional bonus units shall be considered an incentive or concession.

D. If a Developer agrees to construct a Housing Development that will contain less than the percentage of affordable units required to qualify for a Density Bonus pursuant to the State Density Bonus Law, the Developer may seek approval of a Conditional Use Permit for a Density Bonus that is proportionally lower than the minimum density bonus specified in the State Density Bonus Law.

E. With the exception of the additional Density Bonuses for a land donation, Child Care Facility and qualifying affordable housing projects, as provided in this article or under State Density Bonus Law, each Housing Development shall be entitled to only one Density Bonus.

F. Any Dwelling Unit that would otherwise qualify as a Restricted Unit that is required to be maintained as an affordable unit pursuant to the City's Inclusionary Housing Ordinance shall also be considered a Restricted Unit for purposes of determining whether the Housing Development qualifies for a Density Bonus.

G. Any Density Bonus or incentive or concession awarded pursuant to this Article shall generally apply only to the particular Housing Development for which the Density Bonus or incentive or concession is awarded. A Density Bonus or incentive or concession may be transferred, credited, or applied to a different Housing Development only if the City and the Developer agree pursuant to an approved Density Bonus Housing Agreement.

H. The approval of a Density Bonus shall not, in and of itself, preclude a Housing Development from receiving other government subsidies for affordable housing.

I. The approval of a Density Bonus, incentive or concession, development standard waiver or modification, or parking modification as provided herein, shall not be interpreted, in and of itself, to require a General Plan amendment, zoning change, or other discretionary approval.

***Sec. 10-2.3.1004. Waiver and Reduction of Development Standards.***

A Developer may seek a waiver or reduction of development standards that will have the effect of physically precluding the construction of a Housing Development that qualifies for a Density Bonus at the densities or with the incentives or concessions permitted by this Article, as and to the extent required pursuant to Section 65915 of the State Density Bonus Law. The Developer must make such request in writing. If the City determines that the requested waiver or reduction does not meet the criteria under Section 65915 of the State Density Bonus Law, and upon the request of a Developer, the City shall meet with the Developer to discuss such deficiencies and compliance with said criteria in a requested waiver or reduction of City development standards.

Notwithstanding the foregoing, the City shall not be required to approve any request for a waiver or modification of development standards as permitted by Section 65915 of the State Density Bonus Law.

***Sec. 10-2.3.1005. Density Bonus for Child Care Facilities.***

When a Developer proposes to construct a Housing Development that qualifies for a Density Bonus under Section 10-2.3.1003 of this Article and the qualifying Housing Development includes a Child Care Facility that will be located on the premises of, as part of, or immediately adjacent to, the Housing Development, and the Housing Development otherwise meets the requirements under subdivisions (b) and (h) of Section 65915 of the State Density Bonus Law, the City shall grant an additional density bonus and concession or incentive as provided under subdivision (h) of Section 65915 of the State Density Bonus Law and subject to the requirements therein.

***Sec. 10-2.3.1006. Density Bonus for Qualifying Commercial Projects.***

When a Developer proposes to construct a commercial development project and has entered into an agreement for partnered housing to contribute affordable housing through a joint project or two separate projects encompassing affordable housing, and such form and content of agreement, joint project and construction to affordable housing, the type of partner housing developer, and the site proposed for housing construction all comply with the requirements of Section 65915.7 of the State Density Bonus Law, the City shall grant a density bonus in accordance with Section 65915.7. For a commercial development project receiving a density bonus pursuant to this section, construction for the affordable housing shall commence in accordance with timelines ascribed by the agreement between the commercial Developer and affordable housing partner, or the City shall withhold certificates of occupancy for the commercial development until the partner developer has completed construction of the affordable units.

***Sec. 10-2.3.1007. Floor Area Ratio Bonus for Qualifying Transit-Adjacent Projects.***

When a Developer proposes to construct an eligible housing development as defined in Section 65917.2 of State Density Bonus Law, and that otherwise meets the requirements of that section, the City shall grant a floor area ratio bonus in lieu of a density bonus awarded on the basis of dwelling units per acre, and related incentives or concessions including reduced parking ratios, in accordance with Section 65917.2. In the case of an eligible housing development that is zoned for mixed-use purposes, any floor area ratio requirement under the Zoning Ordinance, General Plan, and any Specific Plan applicable to the nonresidential portion of the eligible housing development shall continue to apply notwithstanding the award of a floor area ratio bonus pursuant to this section.

***Sec. 10-2.3.1008. Revised Parking Standards.***

Upon the written request of the Developer of a Housing Development that qualifies for a Density Bonus under Section 10-2.3.1003 of this Article, the City shall permit vehicle parking ratios, inclusive of handicapped and guest parking, which do not exceed the parking ratios established pursuant to Section 65915(p) of the State Density Bonus Law.

***Sec. 10-2.3.1009. Affordability Requirements.***

All Restricted Units shall remain affordable in accordance with the requirements of, and for the minimum period required by, the State Density Bonus Law. The required affordability time limit for each Restricted Unit shall commence upon the issuance of a certificate of occupancy for such Restricted Unit. The owner of rental Restricted Units shall provide all notices and rights to tenants required to be given prior to and upon the expiration of affordability covenants pursuant to Government Code Section 65863.10 or successor statutes.

***Sec. 10-2.3.1010. Development Standards and Limitations.***

A. All Housing Developments subject to this Article must satisfy all of the requirements of this Article, notwithstanding the Housing Development's satisfaction of other program requirements, laws or regulations such as Part III, Article 9, **Inclusionary Housing** of this chapter. Those Restricted Units provided under this Article which meet all of the requirements for inclusionary units set forth in Part III, Article 9, **Inclusionary Housing** of this chapter, shall also qualify as inclusionary units for purposes of that article.

B. Restricted Units shall be constructed concurrently with Non-Restricted Units as specified in the Density Bonus Housing Agreement, unless the City and the Developer otherwise agree pursuant to a schedule included in the Density Bonus Housing Agreement.

C. Unless the City and Developer otherwise agree pursuant to a Density Bonus Housing Agreement, Restricted Units:

1. Shall be built on site;
2. Shall not be located in only one portion of the Housing Development or be situated within only one building of a Housing Development that contains multiple buildings; and
3. Shall be of the same size and interior finishes and features as the Non-Restricted Units.

D. Residents of Restricted Units shall be entitled to use all of the same amenities within the Housing Development. The number of bedrooms of the Restricted Units shall be proportional to the number of bedrooms in the non-Restricted Units of the Housing Development. The exterior appearance of the Restricted Units shall be of the same design and appearance as the overall Housing Development by having the same building form (proportion of width to length and plate height with a variation of up to twenty-five percent (25%)), exterior construction materials, roof form, siding and trim, and window placement and type. Housing Developments shall comply with all applicable development standards, except those that may be modified as provided by this Article. In addition, all units in Housing Developments subject to this Article must comply with all applicable California Building Standards Codes including but not limited to residential and fire code requirements.

E. Density Bonus units may be located in geographic areas of the development site other than the areas where the Restricted Units are located, and shall be located only on parcels for which the Density Bonus was granted except as permitted pursuant to paragraph G of Section 10-2.3.1003.

F. No building permit shall be issued, nor any development approval granted, for any improvements within a Housing Development subject to this Article which does not

meet the requirements of this Article. No Restricted Unit shall be rented or sold except in accordance with this Article.

G. The entry into and execution of a Density Bonus Housing Agreement shall be a condition of any application for a discretionary land use permit, including but not limited to subdivision maps, site plans, and conditional use permits, for a Housing Development proposed under this Article.

***Sec. 10-2.3.1011. Density Bonus Application Procedure.***

A. An application for a Density Bonus, incentive, concession, waiver, modification, or revised parking standard pursuant to the Density Bonus Ordinance shall, to the extent possible, be submitted with the first application for approval of a Housing Development, including a preliminary application submitted pursuant to Government Code Section 65941.1, and processed concurrently with all other applications required for the Housing Development. If any requested incentive, concession, waiver, modification, or revised parking standard requires a separate land use application, including but not limited to a variance or conditional use permit, the separate land use application shall, to the extent possible, be submitted with the Housing Development application for concurrent processing.

B. The Community Development Director or his or her designee shall prepare and maintain a list of supplemental application materials for Density Bonus, incentive, concession, waiver, modification, or revised parking standard requests under this Article, which materials shall be submitted together with and as part of the project application.

C. The application shall be submitted on a form prescribed by the City and shall include at least the following information:

1. Site plan showing total number of Dwelling Units, including the number and location of Non-Restricted Units, the number and location of Restricted Units, and the number and location of proposed Density Bonus units.

2. Level of affordability of Restricted Units and plans for ensuring affordability.

3. Description of any requested incentive, concession, waiver or modifications of development standards, or modified parking standards. For any incentive and concession except mixed-use development, the application shall include evidence that the requested incentive and concession results in identifiable and actual cost reductions. For waivers or modifications of development standards, the application shall show that the development standards will have the effect of physically precluding the construction of a Housing Development that qualifies for a Density Bonus at the densities or with the incentives or concessions permitted by this Density Bonus Ordinance.

4. If a Density Bonus is requested for a donation of land, the application shall show the location of the land to be dedicated and provide evidence that all of the



conditions required by Section 65915 of the State Density Bonus Law for donations of land are satisfied.

5. If a Density Bonus or incentive or concession is requested for a Child Care Facility, the application shall show the location and square footage of the Child Care Facility and provide evidence that each of the findings included in Section 10-2.3.1007 of this Article can be made.

***Sec. 10-2.3.1012. City Review of Density Bonus Application.***

A. Upon submittal of an application for a Density Bonus, incentive, concession, waiver, modification, or revised parking standard, the Community Development Director or his or her designee shall determine if the application is complete and conforms to the provisions of this Density Bonus Ordinance.

B. An application for a Density Bonus, incentive, concession, waiver, modification, or revised parking standard pursuant to the Density Bonus Ordinance shall be considered by and acted upon by the approval body with authority to approve the Housing Development. Notwithstanding other provisions of this chapter, any decision regarding a Density Bonus, incentive, concession, waiver, modification, or revised parking standard may be appealed to the Planning Commission and from the Planning Commission to the City Council.

C. Public hearings shall be held pursuant to Section 10-2.4.301 for any Density Bonus, incentive, concession, waiver, modification, or revised parking standard applied for under the provisions of this Density Bonus Ordinance. Density Bonuses shall be approved by the highest approval body required to review and approve the requested application. Other reviewing bodies in advisory roles shall provide comments and recommendations to the approving body.

***Sec. 10-2.3.1013. Density Bonus Housing Agreement.***

A. Any Developer receiving a Density Bonus, incentives and concessions, waivers or modifications of development standards, or reduced parking requirements pursuant to this Article shall agree to enter into a Density Bonus Housing Agreement with the City to ensure compliance with this Article and State Density Bonus Law, including that Restricted Units remain restricted and affordable in accordance with State Density Bonus Law requirements. The Density Bonus Housing Agreement shall be submitted by City to the Developer, shall be made a condition of the discretionary planning permits for all Housing Developments pursuant to this Article and shall be recorded as a deed restriction on any parcels on which the Restricted Units will be constructed. Where an inclusionary housing agreement is required pursuant to Part III, Article 9, **Inclusionary Housing** of this chapter, both the Density Bonus Housing Agreement and inclusionary housing agreement shall, if feasible, be combined into a single agreement.

B. The Density Bonus Housing Agreement shall be recorded prior to the approval of any parcel map or final map or, where the Housing Development does not include a map, prior to issuance of a building permit for any structure in the Housing Development. The Density Bonus Housing Agreement shall run with the land and be binding upon all future owners and successors in interest.

C. The Density Bonus Housing Agreement shall include, but not be limited to, the following terms:

1. The total number of units including Restricted Units approved for the Housing Development, the number of Density Bonus units granted, and the number, type, location, unit size (square footage), number of bedrooms, tenure of restrictions and affordability, and level of affordability of Restricted Units.

2. Standards for determining affordable rent or affordable ownership cost for the Restricted Units.

3. A schedule for completion and occupancy of Restricted Units in relation to construction of Non-Restricted Units.

4. A description of any incentive, concession, waiver, modification, or revised parking standard being provided by the City.

5. Provisions to ensure affordability of the Restricted Units, including but not limited to and where applicable, tenure and conditions governing the initial sale of for-sale Restricted Units.

6. Where applicable, tenure and conditions establishing rules and procedures for qualifying tenants and prospective purchasers, setting rental rates, filling vacancies, and operating and maintaining units for rental Restricted Units.

7. A description of remedies for breach of the agreement by either party. The City may identify tenants or qualified purchasers as third party beneficiaries under the agreement.

8. Other provisions to ensure implementation and compliance with this Article and the State Density Bonus Law.

***Sec. 10-2.3.1014. Restricted Units Occupancy and Management.***

A. Density Bonus Resale Agreement. All buyers of for-sale Restricted Units shall enter into a density bonus resale agreement with the City prior to purchasing the unit or property. The resale agreement shall be consistent with the density bonus housing agreement.

B. Eligibility Requirements. Only households meeting the eligibility standards for the Restricted Units as set forth in the density bonus housing agreement shall be eligible to occupy Restricted Units.

C. Management and Monitoring. Rental Restricted Units shall be managed and operated by the owner or his or her agent. Each owner of rental Restricted Units shall submit an annual report to the City in the form prescribed by the City, identifying which units are Restricted Units, the monthly rent, vacancy information for each rental target dwelling unit for the prior year, monthly income for tenants of each rental target dwelling unit, and other information as required by the City, while ensuring the privacy of the tenant.

**Sec. 10-2.3.1015. Severability.**

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the remainder of the chapter and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby. In the event of any conflict between this chapter and State Density Bonus Law, State Density Bonus Law shall prevail.

**Section 4. Severability**

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have adopted this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more section, subsection, sentence, clause, or phrase be declared invalid.

**Section 5. Effective Date**

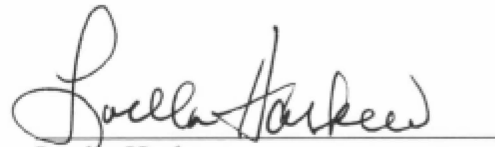
Pursuant to the provisions of Government Code Section 36933, a summary of this Ordinance shall be prepared by the City Attorney. At least five (5) days prior to the Council meeting at which this Ordinance is scheduled to be adopted, the City Clerk shall (1) publish the summary, and (2) post in the City Clerk’s Office a certified copy of this Ordinance. Within fifteen (15) days after the adoption of this Ordinance, the City Clerk shall (1) publish the summary, and (2) post in the City Clerk’s Office a certified copy of the full text of this Ordinance along with the names of those City Council members voting for and against this Ordinance or otherwise voting. This Ordinance shall become effective on the 31st day after its adoption.

**PASSED AND ADOPTED** by the City Council of the City of Walnut Creek at a regular meeting thereof held on the 18<sup>th</sup> day of June 2024 by the following called vote:

AYES: Councilmembers: Francois, Silva, Wilk, Darling, Mayor Haskew

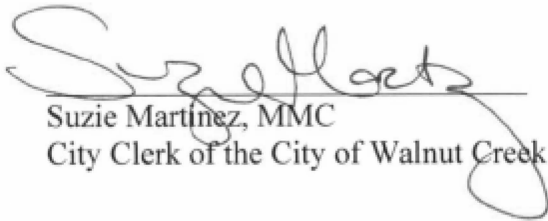
NOES: Councilmembers: None

ABSENT: Councilmembers: None



Loella Haskew  
Mayor of the City of Walnut Creek

Attest:



Suzie Martinez, MMC  
City Clerk of the City of Walnut Creek