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EXHIBIT A

Proposed Code Amendment

**Adding a New Chapter 17.38 (Density Bonus) to Title 17 of the Pleasanton
Municipal Code**

**Chapter 17.38
DENSITY BONUS**

Sections:

- 17.38.010 Purpose and Intent**
- 17.38.020 Definitions**
- 17.38.030 Eligibility**
- 17.38.040 Calculation of Density Bonus**
- 17.38.050 Incentives and Concessions**
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- 17.38.120 Application Requirements, Review and Findings**
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- 17.38.140 Conflict of Interest**

17.38.010 Purpose and Intent.

The purpose of this chapter is to comply with California Government Code Sections 65915 et seq. (State Density Bonus Law), as amended, as well as implement program 9.6 of the housing element (2012) of the city's general plan (2005-2025).

17.38.020 Definitions

For the purposes of this chapter, certain words and phrases shall be interpreted as set forth in this section.

- A. "Affordable ownership cost" means monthly housing payments during the first calendar year of household's occupancy, including interest, principal, mortgage insurance, property taxes, homeowners' insurance, property maintenance and repairs, a reasonable allowance for utilities and homeowners' association dues, if any, not exceeding the following:
 - 1. Very low income units: 50 percent of the Area Median Income, adjusted for assumed household size based on unit size, multiplied by 30 percent and divided by 12.

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2. Low income units: 70 percent of the Area Median Income, adjusted for assumed household size based on unit size, multiplied by 30 percent and divided by 12.
3. Moderate income units: 110 percent of the area median income, adjusted for assumed household size based on unit size, multiplied by 35 percent and divided by 12.

The assumed household size shall be one person in a studio unit, two persons in a one-bedroom unit, three persons in a two-bedroom unit, and one additional person for each additional bedroom.

- B. "Affordable rent" means monthly housing expenses, including all fees for housing services and a reasonable allowance for utilities, not exceeding the following:
1. Very low income units: 50 percent of the area median income, adjusted for assumed household size based on unit size, multiplied by 30 percent and divided by 12.
 2. Low income units: 60 percent of the area median income, adjusted for assumed household size based on unit size, multiplied by 30 percent and divided by 12.

The assumed household size shall be one person in a studio unit, two persons in a one-bedroom unit, three persons in a two-bedroom unit, and one additional person for each additional bedroom.

- C. "Area Medium Income" means area median income for Alameda County as published and periodically updated by the State Department of Housing and Community Development.
- D. "Child care facility" means a child day care facility other than a family day care home, including, but not limited to, infant centers, preschools, extended day care facilities, and school age child care centers.
- E. "Common interest development" means a community apartment project, condominium project, planned development or stock cooperative as defined in California Civil Code Section 1351.
- F. "Condominium project" means a housing development consisting of condominium units and common areas as defined in California Civil Code Section 1351.

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- G. "Density bonus" means a density increase over the otherwise allowable maximum residential density of a site.
- H. "Density bonus unit" means those residential units, granted pursuant to the provisions of this chapter, which exceed the otherwise maximum allowable residential density for a development site.
- I. "Development standard" means any site or construction condition that applies to a residential development pursuant to any ordinance, general plan element, specific plan, or other local condition, law, policy, resolution, or regulation. "Site and construction conditions" means standards that specify the physical development of a site and buildings on the site in a housing development.
- J. "Housing development" means construction projects consisting of five or more residential units, including single-family and multifamily units, for sale or for rent. For the purposes of this chapter "housing development" also includes a subdivision, planned unit development, or common interest development consisting of five or more residential units or unimproved residential lots, the substantial rehabilitation of an existing multifamily dwelling or conversion of commercial building into residential involving the creation of a net increase of five or more residential units.
- K. "Incentive or concession" means such regulatory concessions as listed in Section 17.38.050.
- L. "Low income household" means households whose income does not exceed the low income limits applicable to Alameda County, as published and periodically updated by the State Department of Housing and Community Development pursuant to California Health & Safety Code Section 50079.5.
- M. "Maximum allowable residential density" means the maximum number of residential units permitted by the applicable zoning regulations, land use element of the general plan, specific plan, or maximum density established by the City's Housing Site Development Standards and Design Guidelines for multi-family housing sites.
- N. "Moderate income household" means households whose income does not exceed the moderate income limits applicable to Alameda County, as published and periodically updated by the State Department of Housing and Community Development pursuant to California Health & Safety Code Section 50093.

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- O. "Non-restricted unit" means all units within a housing development, excluding the target units.
- P. "Planned development" means a development (other than a community apartment project, a condominium project, or a stock cooperative) having either or both of the following features:
 - 1. The common area is owned either by an association or in common by the owners of the separate interests who possess rights to the beneficial use and enjoyment of the common area;
 - 2. A power exists in the association to enforce an obligation of an owner of a separate interest with respect to the beneficial use and enjoyment of the common area by means of an assessment which may become a lien upon the separate interests.
- Q. "Senior citizen housing development" means a residential development developed, substantially rehabilitated, or substantially renovated for, senior citizens that has at least 35 dwelling units, as defined in the California Civil Code Section 51.3, or a mobile home park that limits residency based on age requirements for housing for older persons pursuant to California Civil Code Sections 798.76 or 799.5.
- R. "Target unit" means a dwelling unit within a housing development which will be reserved for sale or rent to, and is made available at an affordable rent or affordable ownership cost to very low, low or moderate income households, or is a unit in a senior citizen housing development.
- S. "Very low income household" means households whose income does not exceed the very low income limits applicable to Alameda County, as published and periodically updated by the State Department of Housing and Community Development pursuant to California Health & Safety Code Section 50105.

17.38.030 Eligibility.

An applicant proposing a housing development of five or more dwelling units may request and be eligible for one density bonus and one or more incentives or concessions provided the applicant agrees to construct one of the following:

- A. At least ten percent of the total units of a housing development for low income households; or

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- B. At least five percent of the total units of a housing development for very low income households; or
- C. A senior citizen housing development; or
- D. At least ten percent of the total dwelling units in a newly constructed common interest development for sale to moderate income households.

17.38.040 Calculation of Density Bonus

- A. Each housing development is entitled to one density bonus, which may be selected from one of the four eligibility criteria established in Section 17.38.030 . Density bonuses from more than one of these categories may not be combined.
- B. The amount of density bonus to be granted for a housing development which meets the eligibility criteria in Section 17.38.030 shall be calculated as follows, and as summarized in Table 17.38.040:
 - 1. Ten Percent Low Income Units. Housing developments providing at least ten percent of the dwelling units for low income households pursuant to Section 17.38.030(A) shall be entitled to a bonus equal to 20 percent of the maximum allowable density of the site. For each one percent increase above ten percent of low income units, the density bonus shall be increased by 1.5 percent up to a maximum of 35 percent.
 - 2. Five Percent Very Low Income Units. Housing developments providing at least five percent of the dwelling units for very low income households pursuant to Section 17.38.030(B) shall be entitled to a bonus equal to 20 percent of the maximum allowable density of the site. For each one percent increase above five percent of very low income units, the density bonus shall be increased by 2.5 percent up to a maximum of 35 percent.
 - 3. Senior Citizen Housing. Housing developments providing 100 percent of the units as senior citizen housing pursuant to Section 17.38.030(C) shall be entitled to a bonus equal to 20 percent of the maximum allowable density of the site. The senior citizen housing must include a minimum of 35 dwelling units not including bonus units.

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4. Ten Percent Moderate Income Common Interest Development Units. Housing developments providing at least ten percent of residential common interest development units for moderate income households pursuant to Section 17.38.030(D) , shall be entitled to a bonus equal to five percent of the maximum allowable density of the site. For each one percent increase above ten percent of moderate income units, the density bonus shall be increased by one percent up to a maximum of 35 percent.
- C. A developer may request a lesser density bonus than the project is entitled but no reduction will be permitted in the number of required target units pursuant to Section 17.38.030 .
- D. No housing development may be entitled to a density bonus of more than 35 percent.
- E. The maximum allowable density of the site shall be determined by the applicable zoning regulations, the land use element of the general plan, specific plan, or density established by the City's Housing Site Development Standards and Design Guidelines for multi-family housing sites.
- F. When calculating the required number of target units and the number of permitted density bonus units, any calculations resulting in fractional units shall be rounded to the next larger whole number.
- G. The density bonus units shall not be included when determining the number of target units required to qualify for a density bonus pursuant to Section 17.38.030.

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Table 17.38.040

Density Bonus Summary

Target Group	Minimum % Target Units	Bonus Granted	Additional Bonus for Each 1% Increase in Target Units	% Target Units Required for Maximum 35% Bonus
Very Low Income	5%	20%	2.5%	11%
Low Income	10%	20%	1.5%	20%
Moderate Income (Common Interest Development, Condo or PUD only)	10%	5%	1%	40%
Senior Citizen Housing Development	100%	20%	–	–
Notes: The maximum allowable density bonus is 35%. A density bonus may only be selected from one target group, except that an additional bonus for land donation may be combined with a target group pursuant to Section 17.38.070. An additional square footage bonus may be granted for a child care facility pursuant to Section 17.38.080.				

17.38.050 Incentives and Concessions

- A. Developers eligible for a density bonus as provided in subsections 17.38.030 (A), (B) or (D), upon specific application, shall be entitled to one or more incentives or concessions as set forth in this section, subject to City review and findings set forth in Section 17.38.120.B.
- B. Calculation of Incentives and Concessions. A developer who is eligible for a density bonus under subsections 17.38.030 (A), (B) or (D) may request and be eligible for one or more incentives or concessions. When requested by the developer, the city shall grant the incentives or concessions in the amount as follows:

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1. One incentive or concession for projects that include at least 10 percent of the total units for low income households, at least 5 percent for very low income households, or at least 10 percent for persons and families of moderate income in a common interest development.
2. Two incentives or concessions for projects that include at least 20 percent of the total units for low income households, at least 10 percent for very low income households, or at least 20 percent for persons and families of moderate income in a common interest development.
3. Three incentives or concessions for projects that include at least 30 percent of the total units for low income households, at least 15 percent for very low income households, or at least 30 percent for persons and families of moderate income in a common interest development.

Table 17.38.050

Incentives/Concessions Summary

Target Group	Target Units		
	5%	10%	15%
Very Low Income	5%	10%	15%
Low Income	10%	20%	30%
Moderate Income (Common interest development, Condo or PUD only)	10%	20%	30%
Maximum Incentive(s)/Concession(s)	1	2	3

Notes:

An incentive or concession may be requested only if an application is also made for a density bonus.

Under this chapter, senior citizen housing is not eligible for an incentive or concession as set forth in this Section 17.38.050, except for the reduction of off-street parking.

An additional incentive or concession may be requested for a child care facility pursuant to Section

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Table 17.38.050

Incentives/Concessions Summary

Target Group	Target Units
17.38.080. See Section 17.38.100 regarding incentives for condominium conversion projects.	

- C. Types of Incentives or Concessions. An incentive or concession shall mean any reduction in site development standards, any modification of zoning or architectural design requirements, or other regulatory exceptions which will result in identifiable, financially sufficient, and actual cost reductions necessary to facilitate the construction of the housing development. Incentives or concessions shall include but not be limited to the following:
1. Incentives or Concessions Not Requiring Financial Report from Developer. Upon written request by the developer, the following incentives and concessions shall be available in the amounts specified in subsection (B) of this section without any requirement that the applicant demonstrates to the city that the requested incentive or concession results in identifiable, financially sufficient, and actual cost reductions to the project.
 - a. A 20 percent reduction in one of the setbacks
 - b. A 10 percent reduction in minimum lot sizes and/or dimensions
 2. Incentives or Concessions Requiring Financial Report from Developer. The following incentives and concession, when requested by the developer, shall require that the developer provide a financial report (pro forma) that demonstrates how the requested incentive or concession results in identifiable, financially sufficient, and actual cost reductions to the project:
 - a. An incentive or concession that exceeds the level of reduction specified for the standards identified in subsection (C)(1) of this section.

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- b. Approval of mixed-use zoning in conjunction with the housing development if nonresidential land uses will reduce the cost of the housing development and if the city finds that the proposed nonresidential uses are compatible with the housing development and with existing or planned development in the area where the proposed housing development will be located.
- c. Off-site Construction of Target Units. Target units required pursuant to this chapter may be permitted to be constructed at a location within the city other than the project site. Any off-site target units must meet the following criteria:
 - (1) The off-site target units must be determined to be consistent with the city's goal of creating, preserving, maintaining, and protecting housing for very low, low, and moderate income households.
 - (2) The off-site target units must not result in a significant concentration of target units in any one particular neighborhood.
 - (3) The off-site target units shall conform to the requirements of all applicable city ordinances, standards and plans, and the provisions of this chapter.
 - (4) The occupancy and rents, or for-sale costs, of the off-site target units shall be governed by the terms of a deed restriction, and if applicable, a declaration of covenants, conditions and restrictions similar to that used for the on-site target units.
 - (5) The density bonus housing agreement, as required by Section 17.38.120, shall stipulate the terms of the off-site target units. If the construction does not take place at the same time as the project development, the agreement shall require the units to be produced within a specified time frame, but in no event longer than five years. A cash deposit or bond may be required by the city, refundable upon construction, as assurance that the target units will be built.
- d. Fee Waiver or Deferral. The city council, by resolution, may waive or defer payment of city development impact fees and/or building permit fees applicable to the target units or the project of which

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they are a part. Fee waivers shall meet the criteria included in the city's adopted policy for evaluating waivers of city fees for affordable housing projects. The density bonus housing agreement, as required by Section 17.38.120, shall include the terms of the fee waiver.

- e. Other regulatory incentives or concessions proposed by the developer or the city which result in identifiable, financially sufficient, and actual cost reductions.
- 3. Except as provided in subsection (C)(1) of this section, a developer requesting one or more incentives or concessions must include with the application detailed financial report (pro forma) to demonstrate that such incentive or concession would result in necessary, identifiable, financially sufficient, and actual cost reductions that could not be achieved without the incentive or concession.
- D. No incentive or concession shall result in structures that do not meet the minimum building standards provided in California Health & Safety Code Division 13, Part 2.5 (commencing with Section 18901).

17.38.060 Waiver or Modification of Development Standards

Developers eligible for a density bonus as provided in Section 17.38.030 may request a waiver or modification of any development standards that will have the effect of precluding the construction of a housing development at the densities or with the concessions or incentives permitted by this section. The developer shall submit a financial report (pro forma) demonstrating that the waiver or modification is necessary to make the housing units economically feasible.

17.38.070 Reduction in Off-Street Parking

- A. Upon the request of a developer eligible for a density bonus, the City shall not require that the off-street parking provided for residential use, inclusive of handicapped and guest parking, exceed the following ratios:
 - 1. Zero to one bedrooms: one off-street parking space.
 - 2. Two to three bedrooms: two off-street parking spaces.
 - 3. Four and more bedrooms: two and one-half off-street parking spaces.

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- B. For purposes of this section, if the total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number.

17.38.080 Land Donation

- A. In addition to any density bonus awarded pursuant to Section 17.38.030, a developer of a housing development that donates qualified land to the city for the construction of dwelling units affordable to very low income households as provided for in this section, the developer shall be entitled to a 15 percent density bonus. For each one percent increase above the minimum 10 percent land donation, the density bonus shall be increased by one percent. This increase shall be in addition to any increase in density allowed by Section 17.38.040, up to a maximum combined density bonus of 35 percent.
- B. A housing development shall be eligible for a density bonus for donation of qualified land only if the city can find that all of the criteria set forth in California Government Code Section 65915(g) will be met.

17.38.090 Child Care Facilities

- A. When a developer proposes to construct a housing development that includes target units as specified in Section 17.38.030 and includes a child care facility that will be located on the premises of, as part of, or adjacent to the housing development, the developer may request and the city shall grant either of the following if requested by the developer:
 - 1. An additional density bonus that is an amount of square feet of residential space that is equal to or greater than the amount of square feet in the child care facility.
 - 2. An additional incentive or concession that contributes significantly to the economic feasibility of the construction of the child care facility, as demonstrated by the developer.
- B. A housing development shall be eligible for the density bonus or incentive or concession described in this section if the city requires as an enforceable condition of approval, memorialized in an agreement recorded against the qualified housing development, that:

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1. The child care facility will remain in operation for a period of time that is as long as or longer than the period of time during which the target units are required to remain affordable pursuant to Section 17.38.100.
 2. Of the children who attend the child care facility, the percentage of children of very low income households, low income households, or moderate income households shall be equal to or greater than the percentage of dwelling units that are proposed to be affordable to very low income households, low income households, or moderate income households.
- C. Notwithstanding any requirement of this section, the city shall not be required to provide a density bonus or concession for a child care facility if it finds, based upon substantial evidence, that the community already has adequate child care facilities.

17.38.100 Condominium Conversion

- A. The city shall grant either a density bonus or other incentives of equivalent financial value if the developer of a conversion of existing rental apartments to condominiums agrees to provide 33 percent of the total units of the proposed condominium project as target units affordable to low or moderate income households, or to provide 15 percent of the total units in the condominium conversion project as target units affordable to lower income households.
- B. For purposes of this section, a “density bonus” means an increase in units of 25 percent over the number of apartments to be provided within the existing structure or structures proposed for conversion.
- C. For purposes of this section, "other incentives of equivalent financial value" may include the reduction or waiver of requirements which the city would apply as conditions of conversion.
- D. No condominium conversion shall be eligible for a density bonus if the apartments proposed for conversion constitute a housing development for which a density bonus or other incentives were previously provided pursuant to this chapter or California Government Code Section 65915, as amended.

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17.38.110 Affordability and Development Standards

- A. All target units shall be constructed concurrently with, or prior to, the construction of the project's non-restricted units.
- B. Target units offered for sale to very low, low, or moderate income households in common interest developments shall be sold at an affordable ownership cost, and subject to an equity sharing agreement as provided in California Government Code section 65915(c).
- C. Target units shall remain affordable through recordation of a density bonus housing agreement as required by Section 17.38.120.
- D. Target units shall be dispersed throughout the project unless otherwise approved by the city.
- E. Target units shall be built on site, unless off-site construction is approved at the city's discretion pursuant to the criteria in subsection 17.38.050(C)(2)(c). The density bonus housing agreement shall stipulate the terms of the off-site target units. If the construction does not take place at the same time as project development, the agreement shall require the units to be produced within a specified time frame, but in no event longer than five years. A cash deposit or bond may be required by the city, refundable upon construction, as assurance that the units will be built.
- F. Target units may be of smaller size than the non-restricted units in the project. In addition, target units may have fewer interior amenities than the non-restricted units in the project. However, the city may require that the target units meet certain minimum standards. These standards shall be set forth in the density bonus housing agreement for the project.
- G. Target units shall be constructed with identical exterior materials and an exterior architectural design that is consistent with the non-restricted units in the project
- I. The city's adopted preference and priority system shall be used for determining eligibility among prospective beneficiaries for affordable housing units.
- J. For purposes of calculating the affordable rent or affordable sales price of target unit, the following household size assumptions shall be used for each applicable dwelling unit type:

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Unit Size	HUD Income Category by Household Size
Studio unit	1 person
1 bedroom unit	2 persons
2 bedroom unit	3 persons
3 bedroom unit	4 persons
4 or more bedroom unit	5 or more persons

17.38.120 Application Requirements, Review and Findings

- A. Application. An application for a density bonus, incentive or concession, and/or waiver or modification of development standards as provided in this chapter shall be submitted with the first application for approval of a housing development, and processed concurrently with all other applications required for the housing development. 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 and size of units, number and location of target units, and number and location of proposed density bonus units.
 2. Level of affordability of target units and proposal for ensuring affordability in perpetuity.
 3. Description of any requested incentives or concessions, or waivers or modifications of development standards.
 - a. For all incentives or concessions that require a financial report (pro forma) pursuant to subsection C of Section 17.38.050, the

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pro forma shall state financial evidence demonstrating that such incentive or concession would result in necessary, identifiable, financially sufficient, and actual cost reductions that could not be achieved without the incentive or concession.

- b. For waivers and modification of development standards that require submittal of a financial report (pro forma) as provided in Section 17.38.060, the pro forma shall demonstrate that the waiver or modification is necessary to make the housing units economically feasible and that the development standards will have the effect of precluding the construction of a housing development at the densities or with the concessions or incentives permitted by this chapter.
 - c. The cost of reviewing any required pro forma data submitted as a part of the application in support of a request for a incentive or concession, or waiver or modification of development standards, including but not limited to the cost to the city of hiring a consultant to review said pro forma, shall be borne by the applicant.
- 4. If an additional density bonus is requested for land donation, the application shall show the location of the land to be dedicated and provide evidence that each of the criteria included in Section 17.38.070(B) can be met.
 - 5. 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 each of the criteria referenced in Section 17.38.080(B) can be made.
- B. Review and Findings.
- 1. An application for a density bonus, incentive or concession, or waiver or modification, pursuant to this chapter shall be considered by and acted upon by the approval body with authority to approve the housing development. Any decision regarding a density bonus, incentive, concession, or waiver or modification, may be appealed to the planning commission and from the planning commission to the city council.
 - 2. In accordance with state law, neither the granting of a concession, incentive, waiver, or modification, nor the granting of a density bonus

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shall be interpreted, in and of itself, to require a general plan amendment, zoning change, variance, or other discretionary approval.

3. Before approving an application for a density bonus, incentive or concession, or waiver or modification of a development standard, the approval body shall make the following findings:
 - a. If an incentive or concession is requested, that the incentive or concession results in necessary, identifiable, financially sufficient, and actual cost reductions that could not be achieved without the incentive or concession.
 - b. If a waiver or modification of a development standard is requested, that the waiver or modification is necessary to make the housing units economically feasible at the densities permitted and with any eligible concessions or incentives.
 - c. If the density bonus is based all or in part on donation of land, the project meets the criteria in Section 17.38.070(B) .
 - d. If the density bonus, incentive, or concession is based all or in part on the inclusion of a child care facility, the project meets the findings included in Section 17.38.080(B) .
4. If a request for an incentive or concession is otherwise consistent with this chapter, the approval body may deny an incentive or concession if it makes a written finding, based upon substantial evidence, of any of the following:
 - a. The concession or incentive is not required to provide for affordable rents or affordable ownership costs.
 - b. The concession or incentive would have a specific adverse impact upon public health or safety or the physical environment or on any real property that is listed in the California Register of Historical Resources, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low and moderate income households. For the purpose of this subsection, “specific adverse impact” means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, written public health or safety standards, policies, or conditions as they existed on the date that the application was deemed complete.

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- c. The concession or incentive would be contrary to state or federal law.
- 5. If a request for a waiver or modification of a development standard is otherwise consistent with this chapter, the approval body may deny the waiver or modification only if it makes a written finding, based upon substantial evidence, of any of the following:
 - a. The waiver or modification would have a specific adverse impact upon health, safety, or the physical environment, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low and moderate income households. For the purpose of this subsection, “specific adverse impact” means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, written public health or safety standards, policies, or conditions as they existed on the date that the application was deemed complete.
 - b. The waiver or modification would have an adverse impact on any real property that is listed in the California Register of Historical Resources.
 - c. The waiver or modification would be contrary to state or federal law.
- 6. If a density bonus and an incentive or concession is based on the provision of child care facilities, the approval body may deny the bonus or concession if it finds, based on substantial evidence, that the city already has adequate child care facilities.

17.38.130 Density Bonus Housing Agreement

- A. For all housing projects receiving a density bonus under this chapter a density bonus housing agreement shall be entered into by the city and the project owner. The density bonus housing agreement shall be made a condition of the discretionary planning permits for all housing developments pursuant to this chapter and shall be recorded as a deed restriction on any parcel on which the target units will be constructed.
- B. The approval and/or recordation of this agreement shall take place prior to final map approval or, where a map is not being processed, prior to the issuance of a building permit for any structure in the housing development.

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The agreement shall run with the land and be binding on all future owners and successors.

- C. The density bonus housing agreement shall include but not be limited to the following:
1. The total number of units approved for the housing development, the number, location, and level of affordability of target units, and the number of density bonus units.
 2. Standards for determining affordable rent or affordable ownership cost for the target units.
 3. The location, unit size in square feet, and number of bedrooms of target units.
 4. Provisions to ensure affordability in accordance with subsections B and C of Section 17.38.100.
 5. A schedule for completion and occupancy of target units in relation to construction of non-restricted units.
 6. A description of any incentives or concessions, or waivers or modification of development standards being provided by the city.
 7. The terms of any waiver or deferral of city development impact fees and/or building permit fees applicable to the target units or the project of which they are a part.
 8. 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.
 9. Procedures for qualifying tenants and prospective purchasers of target units.
 10. Other provisions to ensure implementation and compliance with this chapter.
- D. In the case of for-sale housing developments, the density bonus housing agreement shall include the following conditions governing the sale and use of target units during the applicable use restriction period:
1. Target units shall be owner-occupied by eligible very low, low, or moderate income households, or by qualified residents in the case of senior citizen housing developments.

DRAFT

EXHIBIT A

Proposed Code Amendment

**Adding a New Chapter 17.38 (Density Bonus) to Title 17 of the Pleasanton
Municipal Code**

2. The purchaser of each target unit shall execute an instrument, approved by the city and to be recorded against the parcel, including such provisions as the city may require to ensure continued compliance with this chapter.
- E. In the case of rental housing developments, the density bonus housing agreement shall provide for the following:
1. Procedures for establishing affordable rent, filling vacancies, and maintaining target units for eligible tenants;
 2. Provisions requiring verification of household incomes;
 3. Provisions requiring maintenance of records to demonstrate compliance with this subsection.
- F. Density bonus housing agreements for land dedication or child care facilities shall ensure continued compliance with all conditions included in sections 17.38.070 and 17.38.080 respectively.

17.38.140 Conflict of Interest

The following individuals are ineligible to purchase or rent a target unit: (a) city employees and officials who have policy making authority or influence regarding city housing programs, and their immediate family members; (b) the project applicant and its officers and employees and their immediate family members; and (c) the project owner and its officers and employees and their immediate family members.

**GOVERNMENT CODE
SECTION 65915-65918**

65915.

(a) When an applicant seeks a density bonus for a housing development within, or for the donation of land for housing within, the jurisdiction of a city, county, or city and county, that local government shall provide the applicant with incentives or concessions for the production of housing units and child care facilities as prescribed in this section. All cities, counties, or cities and counties shall adopt an ordinance that specifies how compliance with this section will be implemented. Failure to adopt an ordinance shall not relieve a city, county, or city and county from complying with this section.

(b)

(1) A city, county, or city and county shall grant one density bonus, the amount of which shall be as specified in subdivision (f), and incentives or concessions, as described in subdivision (d), when an applicant for a housing development seeks and agrees to construct a housing development, excluding any units permitted by the density bonus awarded pursuant to this section, that will contain at least any one of the following:

(A) Ten percent of the total units of a housing development for lower income households, as defined in Section 50079.5 of the Health and Safety Code.

(B) Five percent of the total units of a housing development for very low income households, as defined in Section 50105 of the Health and Safety Code.

(C) A senior citizen housing development, as defined in Sections 51.3 and 51.12 of the Civil Code, or mobilehome park that limits residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the Civil Code.

(D) Ten percent of the total dwelling units in a common interest development as defined in Section 4100 of the Civil Code for persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code, provided that all units in the development are offered to the public for purchase.

(2) For purposes of calculating the amount of the density bonus pursuant to subdivision (f), the applicant who requests a density bonus pursuant to this subdivision shall elect whether the bonus shall be awarded on the basis of subparagraph (A), (B), (C), or (D) of paragraph (1).

(3) For the purposes of this section, "total units" or "total dwelling units" does not include units added by a density bonus awarded pursuant to this section or any local law granting a greater density bonus.

(c)

(1) An applicant shall agree to, and the city, county, or city and county shall ensure, continued affordability of all low- and very low income units that qualified the applicant for the award of the density bonus for 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. Rents for the lower income density bonus units shall be set at an affordable rent as defined in Section 50053 of the Health and Safety Code. Owner-occupied units shall be available at an affordable housing cost as defined in Section 50052.5 of the Health and Safety Code.

(2) An applicant shall agree to, and the city, county, or city and county shall ensure that, the initial occupant of the moderate-income units that are directly related to the receipt of the density bonus in the common interest development, as defined in Section 4100 of the Civil Code, are persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code, and that the units are offered at an affordable housing cost, as that cost is defined in Section 50052.5 of the Health and Safety Code. The local government shall enforce an equity sharing agreement, unless it is in conflict with the requirements of another public funding source or law. The following apply to the equity sharing agreement:

(A) Upon resale, the seller of the unit shall retain the value of any improvements, the down payment, and the seller's proportionate share of appreciation. The local government shall recapture any initial subsidy, as defined in subparagraph (B), and its proportionate share of appreciation, as defined in subparagraph (C), which amount shall be used within five years for any of the purposes described in subdivision (e) of Section 33334.2 of the Health and Safety Code that promote home ownership.

(B) For purposes of this subdivision, the local government's initial subsidy shall be equal to the fair market value of the home at the time of initial sale minus the initial sale price to the moderate-income household, plus the amount of any down payment assistance or mortgage assistance. If upon resale the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value.

(C) For purposes of this subdivision, the local government's proportionate share of appreciation shall be equal to the ratio of the local government's initial subsidy to the fair market value of

the home at the time of initial sale.

(d)

(1) An applicant for a density bonus pursuant to subdivision (b) may submit to a city, county, or city and county a proposal for the specific incentives or concessions that the applicant requests pursuant to this section, and may request a meeting with the city, county, or city and county. The city, county, or city and county shall grant the concession or incentive requested by the applicant unless the city, county, or city and county makes a written finding, based upon substantial evidence, of any of the following:

(A) The concession or incentive is not required in order to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).

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

(C) The concession or incentive would be contrary to state or federal law.

(2) The applicant shall receive the following number of incentives or concessions:

(A) One incentive or concession for projects that include at least 10 percent of the total units for lower income households, at least 5 percent for very low income households, or at least 10 percent for persons and families of moderate income in a common interest development.

(B) Two incentives or concessions for projects that include at least 20 percent of the total units for lower income households, at least 10 percent for very low income households, or at least 20 percent for persons and families of moderate income in a common interest development.

(C) Three incentives or concessions for projects that include at least 30 percent of the total units for lower income households, at least 15 percent for very low income households, or at least 30 percent for persons and families of moderate income in a common interest development.

(3) The applicant may initiate judicial proceedings if the city, county, or city and county refuses to grant a requested density bonus, incentive, or concession. If a court finds that the refusal to grant a requested density bonus, incentive, or concession is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit. Nothing in this subdivision shall be interpreted to require a local government to grant an incentive or concession that has a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Nothing in this subdivision shall be interpreted to require a local government to grant an incentive or concession that would have an adverse impact on any real property that is listed in the California Register of Historical Resources. The city, county, or city and county shall establish procedures for carrying out this section, that shall include legislative body approval of the means of compliance with this section.

(e)

(1) In no case may a city, county, or city and county apply any development standard that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted by this section. An applicant may submit to a city, county, or city and county a proposal for the waiver or reduction of development standards that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted under this section, and may request a meeting with the city, county, or city and county. If a court finds that the refusal to grant a waiver or reduction of development standards is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit. Nothing in this subdivision shall be interpreted to require a local government to waive or reduce development standards if the waiver or reduction would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Nothing in this subdivision shall be interpreted to require a local government to waive or reduce development standards that would have an adverse impact on any real property that is listed in the California Register of Historical Resources, or to grant any waiver or reduction that would be contrary to state or federal law.

(2) A proposal for the waiver or reduction of development standards pursuant to this subdivision shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to subdivision (d).

(f) For the purposes of this chapter, "density bonus" means a density increase over the otherwise maximum allowable residential density as of the date of application by the applicant to the city, county, or city and county. The applicant may elect to accept a lesser percentage of density bonus. The amount of density bonus to which the applicant is entitled shall vary according to the amount by which the percentage of affordable housing units exceeds the percentage established in subdivision (b).

(1) For housing developments meeting the criteria of subparagraph (A) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Low-Income Percentage Density Bonus

Units	
10	20
11	21.5
12	23
13	24.5
14	26
15	27.5
17	30.5
18	32
19	33.5
20	35

(2) For housing developments meeting the criteria of subparagraph (B) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Very Low Percentage Density Bonus

Income Units	
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35

(3) For housing developments meeting the criteria of subparagraph (C) of paragraph (1) of subdivision (b), the density bonus shall be 20 percent of the number of senior housing units.

(4) For housing developments meeting the criteria of subparagraph (D) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Moderate- Percentage Density Bonus

Income Units	
10	5
11	6
12	7
13	8
14	9
15	10
16	11
17	12

18	13
19	14
20	15
21	16
22	17
23	18
24	19
25	20
26	21
27	22
28	23
29	24
30	25
31	26
32	27
33	28
34	29
35	30
36	31
37	32
38	33
39	34
40	35

(5) All density calculations resulting in fractional units shall be rounded up to the next whole number. The granting of a density bonus shall not be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary approval.

(g)

(1) When an applicant for a tentative subdivision map, parcel map, or other residential development approval donates land to a city, county, or city and county in accordance with this subdivision, the applicant shall be entitled to a 15-percent increase above the otherwise maximum allowable residential density for the entire development, as follows:

Percentage Very Low Income	Percentage Density Bonus
10	15
11	16
12	17
13	18
14	19
15	20
16	21

17	22
18	23
19	24
20	25
21	26
22	27
23	28
24	29
25	30
26	31
27	32
28	33
29	34
30	35

(2) This increase shall be in addition to any increase in density mandated by subdivision (b), up to a maximum combined mandated density increase of 35 percent if an applicant seeks an increase pursuant to both this subdivision and subdivision (b). All density calculations resulting in fractional units shall be rounded up to the next whole number. Nothing in this subdivision shall be construed to enlarge or diminish the authority of a city, county, or city and county to require a developer to donate land as a condition of development. An applicant shall be eligible for the increased density bonus described in this subdivision if all of the following conditions are met:

(A) The applicant donates and transfers the land no later than the date of approval of the final subdivision map, parcel map, or residential development application.

(B) The developable acreage and zoning classification of the land being transferred are sufficient to permit construction of units affordable to very low income households in an amount not less than 10 percent of the number of residential units of the proposed development.

(C) The transferred land is at least one acre in size or of sufficient size to permit development of at least 40 units, has the appropriate general plan designation, is appropriately zoned with appropriate development standards for development at the density described in paragraph (3) of subdivision (c) of Section 65583.2, and is or will be served by adequate public facilities and infrastructure.

(D) The transferred land shall have all of the permits and approvals, other than building permits, necessary for the development of the very low income housing units on the transferred land, not later than the date of approval of the final subdivision map, parcel

map, or residential development application, except that the local government may subject the proposed development to subsequent design review to the extent authorized by subdivision (i) of Section 65583.2 if the design is not reviewed by the local government prior to the time of transfer.

(E) The transferred land and the affordable units shall be subject to a deed restriction ensuring continued affordability of the units consistent with paragraphs (1) and (2) of subdivision (c), which shall be recorded on the property at the time of the transfer.

(F) The land is transferred to the local agency or to a housing developer approved by the local agency. The local agency may require the applicant to identify and transfer the land to the developer.

(G) The transferred land shall be within the boundary of the proposed development or, if the local agency agrees, within one-quarter mile of the boundary of the proposed development.

(H) A proposed source of funding for the very low income units shall be identified not later than the date of approval of the final subdivision map, parcel map, or residential development application.

(h)

(1) When an applicant proposes to construct a housing development that conforms to the requirements of subdivision (b) and includes a child care facility that will be located on the premises of, as part of, or adjacent to, the project, the city, county, or city and county shall grant either of the following:

(A) An additional density bonus that is an amount of square feet of residential space that is equal to or greater than the amount of square feet in the child care facility.

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

(2) The city, county, or city and county shall require, as a condition of approving the housing development, that the following occur:

(A) The child care facility shall remain in operation for a period of time that is as long as or longer than the period of time during which the density bonus units are required to remain affordable pursuant to subdivision (c).

(B) Of the children who attend the child care facility, the children of very low income households, lower income households, or families of moderate income shall equal a percentage that is equal to or greater than the percentage of dwelling units that are required for very low income households, lower income households, or families of moderate income pursuant to subdivision (b).

(3) Notwithstanding any requirement of this subdivision, a city, county, or city and county shall not be required to provide a density bonus or concession for a child care facility if it finds, based upon substantial evidence, that the community has adequate child care facilities.

(4) "Child care facility," as used in this section, means a child day care facility other than a family day care home, including, but not limited to, infant centers, preschools, extended day care facilities, and schoolage child care centers.

(i) "Housing development," as used in this section, means a development project for five or more residential units. For the purposes of this section, "housing development" also includes a subdivision or common interest development, as defined in Section 4100 of the Civil Code, approved by a city, county, or city and county and consists of residential units or unimproved residential lots and either a project to substantially rehabilitate and convert an existing commercial building to residential use or the substantial rehabilitation of an existing multifamily dwelling, as defined in subdivision (d) of Section 65863.4, where the result of the rehabilitation would be a net increase in available residential units. For the purpose of calculating a density bonus, the residential units shall be on contiguous sites that are the subject of one development application, but do not have to be based upon individual subdivision maps or parcels. The density bonus shall be permitted in geographic areas of the housing development other than the areas where the units for the lower income households are located.

(j) The granting of a concession or incentive shall not be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary approval. This provision is declaratory of existing law.

(k) For the purposes of this chapter, concession or incentive means any of the following:

(1) A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, including, but not limited to, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required that results in identifiable, financially sufficient, and actual cost reductions.

(2) Approval of mixed use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if the commercial, office, industrial, or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located.

(3) Other regulatory incentives or concessions proposed by the developer or the city, county, or city and county that result in identifiable, financially sufficient, and actual cost reductions.

(l) Subdivision (k) does not limit or require the provision of direct financial incentives for the housing development, including the provision of publicly owned land, by the city, county, or city and county, or the waiver of fees or dedication requirements.

(m) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code).

(n) If permitted by local ordinance, nothing in this section shall be construed to prohibit a city, county, or city and county from granting a density bonus greater than what is described in this section for a development that meets the requirements of this section or from granting a proportionately lower density bonus than what is required by this section for developments that do not meet the requirements of this section.

(o) For purposes of this section, the following definitions shall apply:

(1) "Development standard" includes a site or construction condition, including, but not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open-space requirement, or a parking ratio that applies to a residential development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation.

(2) "Maximum allowable residential density" means the density allowed under the zoning ordinance and land use element of the general plan, or if a range of density is permitted, means the maximum allowable density for the specific zoning range and land use element of the general plan applicable to the project. Where the density allowed under the zoning ordinance is inconsistent with the density allowed under the land use element of the general plan, the general plan density shall prevail.

(p)

(1) Upon the request of the developer, no city, county, or city and county shall require a vehicular parking ratio, inclusive of handicapped and guest parking, of a development meeting the criteria of subdivision (b), that exceeds the following ratios:

(A) Zero to one bedroom: one onsite parking space.

(B) Two to three bedrooms: two onsite parking spaces.

(C) Four and more bedrooms: two and one-half parking spaces.

(2) If the total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number. For purposes of this subdivision, a development may provide "onsite parking" through tandem parking or uncovered parking, but not through onstreet parking.

(3) This subdivision shall apply to a development that meets the requirements of subdivision (b) but only at the request of the applicant. An applicant may request parking incentives or concessions beyond those provided in this subdivision pursuant to subdivision (d).

65915.5.

(a) When an applicant for approval to convert apartments to a condominium project agrees to provide at least 33 percent of the total units of the proposed condominium project to persons and families of low or moderate income as defined in Section 50093 of the Health and Safety Code, or 15 percent of the total units of the proposed condominium project to lower income households as defined in Section 50079.5 of the Health and Safety Code, and agrees to pay for the reasonably necessary administrative costs incurred by a city, county, or city and county pursuant to this section, the city, county, or city and county shall either

(1) grant a density bonus or

(2) provide other incentives of equivalent financial value. A city, county, or city and county may place such reasonable conditions on the granting of a density bonus or other incentives of equivalent financial value as it finds appropriate, including, but not limited to, conditions which assure continued affordability of units to subsequent purchasers who are persons and families of low and moderate income or lower income households.

(b) For purposes of this section, "density bonus" means an increase in units of 25 percent over the number of apartments, to be provided within the existing structure or structures proposed for conversion.

(c) For purposes of this section, "other incentives of equivalent financial value" shall not be construed to require a city, county, or city and county to provide cash transfer payments or other monetary compensation but may include the reduction or waiver of requirements which the city, county, or city and county might otherwise apply as conditions of conversion approval.

(d) An applicant for approval to convert apartments to a condominium project may submit to a city, county, or city and county a preliminary proposal pursuant to this section prior to the

submittal of any formal requests for subdivision map approvals. The city, county, or city and county shall, within 90 days of receipt of a written proposal, notify the applicant in writing of the manner in which it will comply with this section. The city, county, or city and county shall establish procedures for carrying out this section, which shall include legislative body approval of the means of compliance with this section.

(e) Nothing in this section shall be construed to require a city, county, or city and county to approve a proposal to convert apartments to condominiums.

(f) An applicant shall be ineligible for a density bonus or other incentives under this section if the apartments proposed for conversion constitute a housing development for which a density bonus or other incentives were provided under Section 65915.

65916. Where there is a direct financial contribution to a housing development pursuant to Section 65915 through participation in cost of infrastructure, write-down of land costs, or subsidizing the cost of construction, the city, county, or city and county shall assure continued availability for low- and moderate-income units for 30 years. When appropriate, the agreement provided for in Section 65915 shall specify the mechanisms and procedures necessary to carry out this section.

65917. In enacting this chapter it is the intent of the Legislature that the density bonus or other incentives offered by the city, county, or city and county pursuant to this chapter shall contribute significantly to the economic feasibility of lower income housing in proposed housing developments. In the absence of an agreement by a developer in accordance with Section 65915, a locality shall not offer a density bonus or any other incentive that would undermine the intent of this chapter.

65917.5.

(a) As used in this section, the following terms shall have the following meanings:

(1) "Child care facility" means a facility installed, operated, and maintained under this section for the nonresidential care of children as defined under applicable state licensing requirements for the facility.

(2) "Density bonus" means a floor area ratio bonus over the otherwise maximum allowable density permitted under the applicable zoning ordinance and land use elements of the general plan of a city, including a charter city, city and county, or county of:

(A) A maximum of five square feet of floor area for each one square foot of floor area contained in the child care facility for existing structures.

(B) A maximum of 10 square feet of floor area for each one square foot of floor area contained in the child care facility for new structures.

For purposes of calculating the density bonus under this section, both indoor and outdoor square footage requirements for the child care facility as set forth in applicable state child care licensing requirements shall be included in the floor area of the child care facility.

(3) "Developer" means the owner or other person, including a lessee, having the right under the applicable zoning ordinance of a city council, including a charter city council, city and county board of supervisors, or county board of supervisors to make an application for development approvals for the development or redevelopment of a commercial or industrial project.

(4) "Floor area" means as to a commercial or industrial project, the floor area as calculated under the applicable zoning ordinance of a city council, including a charter city council, city and county board of supervisors, or county board of supervisors and as to a child care facility, the total area contained within the exterior walls of the facility and all outdoor areas devoted to the use of the facility in accordance with applicable state child care licensing requirements.

(b) A city council, including a charter city council, city and county board of supervisors, or county board of supervisors may establish a procedure by ordinance to grant a developer of a commercial or industrial project, containing at least 50,000 square feet of floor area, a density bonus when that developer has set aside at least 2,000 square feet of floor area and 3,000 outdoor square feet to be used for a child care facility. The granting of a bonus shall not preclude a city council, including a charter city council, city and county board of supervisors, or county board of supervisors from imposing necessary conditions on the project or on the additional square footage. Projects constructed under this section shall conform to height, setback, lot coverage, architectural review, site plan review, fees, charges, and other health, safety, and zoning requirements generally applicable to construction in the zone in which the property is located. A consortium with more than one developer may be permitted to achieve the threshold amount for the available density bonus with each developer's density bonus equal to the percentage participation of the developer. This facility may be located on the project site or may be located offsite as agreed upon by the developer and local agency. If the child care facility is not located on the site of the project, the local agency shall determine whether the location of the child care facility is appropriate and whether it conforms with the intent of this section. The child care facility shall be of a size to comply with all state licensing requirements in order to accommodate at least 40 children.

(c) The developer may operate the child care facility itself or may contract with a licensed child care provider to operate the facility. In all cases, the developer shall show ongoing coordination with a local child care resource and referral network or local governmental child care coordinator in order to qualify for the density bonus.

(d) If the developer uses space allocated for child care facility purposes, in accordance with subdivision (b), for purposes other than for a child care facility, an assessment based on the square footage of the project may be levied and collected by the city council, including a charter city council, city and county board of supervisors, or county board of supervisors. The assessment shall be consistent with the market value of the space. If the developer fails to have the space allocated for the child care facility within three years, from the date upon which the first temporary certificate of occupancy is granted, an assessment based on the square footage of the project may be levied and collected by the city council, including a charter city council, city and county board of supervisors, or county board of supervisors in accordance with procedures to be developed by the legislative body of the city council, including a charter city council, city and county board of supervisors, or county board of supervisors. The assessment shall be consistent with the market value of the space. A penalty levied against a consortium of developers shall be charged to each developer in an amount equal to the developer's percentage square feet participation. Funds collected pursuant to this subdivision shall be deposited by the city council, including a charter city council, city and county board of supervisors, or county board of supervisors into a special account to be used for child care services or child care facilities.

(e) Once the child care facility has been established, prior to the closure, change in use, or reduction in the physical size of, the facility, the city, city council, including a charter city council, city and county board of supervisors, or county board of supervisors shall be required to make a finding that the need for child care is no longer present, or is not present to the same degree as it was at the time the facility was established.

(f) The requirements of Chapter 5 (commencing with Section 66000) and of the amendments made to Sections 53077, 54997, and 54998 by Chapter 1002 of the Statutes of 1987 shall not apply to actions taken in accordance with this section.

(g) This section shall not apply to a voter-approved ordinance adopted by referendum or initiative.

65918. The provisions of this chapter shall apply to charter cities.