



**PLANNING COMMISSION
STAFF REPORT
June 21, 2022**

Prepared by: Abigail Walker, Community Services Analyst II
Reviewed by: Thomas Last, Community Development Director

DATA SUMMARY:

Application Number: 22PLN-22
Subject: Development Code Amendments
Location: Citywide
Applicant: City of Grass Valley
Zoning/General Plan: Various
Entitlements: Development Code Amendments
Environmental Status: Statutory Exemption

RECOMMENDATION:

That the Planning Commission recommend that the City Council approve the Development Code Amendments, as presented, or as modified by the Planning Commission, which includes the following actions:

1. Determine the project Statutorily Exempt, as the appropriate level of environmental review, in accordance with the California Environmental Quality Act (CEQA) and Guidelines;
2. Adopt an Ordinance Approving the Development Code Amendments as presented; and,
3. Adopt Findings of Fact for the Development Code Amendments as presented.

BACKGROUND:

The Development Code was adopted by the City Council on April 11, 2007 and has been amended multiple times since adoption.

PROJECT DESCRIPTION:

The amendments being proposed through application 22PLN-22 include, but are not limited to: consideration of limiting the quantity of Short Term Rentals (e.g. Airbnb, VRBOs, etc.) allowed in residential zones; amending monument and mural sign permit approval processes; adding a definition and use for beekeeping; expanding Limited Term Permits to include Mobile Food Facilities (food trucks); increasing the height of carriage houses; approval of uses in the Recreation and Public Zones; allowing open type fencing in the Creek and Riparian Zones; updating the City's Affordable Housing Density Bonus section and section that deals with appeals related to Tentative Maps to ensure consistency with State law.

ATTACHMENT 2

ANALYSIS

Staff offers the following for Planning Commission and City Council consideration regarding the proposed Development Code amendments (more details about the following proposed amendments is included in the attachments):

Short Term Rentals (STRs) – There are currently 23 Hosted Short-Term Rentals (owner/manager lives in home and rents room(s)), 21 Vacation Home Short Term Rentals (whole house is rented), and 9 Bed & Breakfasts (owner/manager lives in home and rents room(s)). In total, there are 54 permitted short-term rentals in City Limits and two pending Minor Use Permit applications for Vacation Home Rentals.

In addition to providing direction to staff regarding the four amendments to short term rental regulations proposed: 1) limiting quantity of STRs per lot, 2) disallowing STRs in Accessory Dwelling Units (ADUs), 3) amending parking requirements, and 4) clarifying legally non-conforming status; staff is requesting the Planning Commission and City Council advise if the City should continue to allow unlimited STR permits and business licenses, or if a cap or other restriction should be considered to ensure the permanent rental stock is not continuously diminished. This was a policy discussion/concern at both the Planning Commission and City Council and staff thought it prudent to raise once again considering the number of applications submitted in the last several years.

Signs – Staff is proposing to amend the approval process for Monument and Mural Sign applications to help expedite the application and approval process and make it more cost effective for applicants.

Animal Keeping – The proposed amendment is to provide a definition of “Beekeeping” to support any commercial agricultural operations wanting to utilize a pollinator apiary in the City. Pollination apiaries are temporary in nature, and their longevity is determined by the specific crop to be pollinated.

Second Units/Accessory Dwelling Units – The amendments related to second units proposed are meant to: allow owners/residents of Legally Non-Conforming (LNC) Single Family Dwellings (SFDs) in non-residential zones to create second unit/ADU opportunities where they are not currently permitted; help provide clarification as there is no definition of “permanent dwelling” in the Development Code and the current height limitation for carriage houses (e.g. living area over garage) is inadequate; and to update the terminology from “Second Units” to “Accessory Dwelling Units” throughout the Development Code so it aligns with current State law verbiage.

Public Zone – There are currently several uses listed as not permitted in Public Zones that currently take place in various City parks. The proposed amendment to this section would be a cleanup item to ensure the Development Code is consistent with current land uses taking place in the City’s parks.

To help expedite park projects and considering that park projects require City financing, the proposed amendment is to have park projects approved by City Council only (all City projects are required to get City Council approval prior to the design phase and commitment of funding). Therefore, as proposed, City Park projects would no longer be reviewed by Planning Commission.

Fence and Structure Height Measurement and Placement – Staff is proposing to make a couple edits to fence and structure height measurement to help provide clarification. Also, to help separate bank and reduce encroachment into creek/water areas of Creek and Riparian Resource Protection Section of the Development Code, the proposed amendment would allow installation of decorative, open design fencing in the open space areas within watercourse setbacks.

Density Bonuses | Planned Development Permits | Tentative Maps - To ensure City code is consistent with State law, there are multiple amendments being proposed to the City’s code related to Density Bonuses and Tentative Maps. Additionally, to help further support the purpose of Planned Development Permits: “flexibility in the application of development code standards,” staff is proposing to add language that “Planned Development permit application requirements are subject to the review and approval of the Community Development Director.”

Lastly, there are multiple miscellaneous cleanup amendments being proposed to help provide clarification and further compliance with State law.

ENVIRONMENTAL DETERMINATION:

In accordance with CEQA Section 15261 (b)(3), updating the Development Code is covered by the CEQA common sense exemption. In summary, where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

FINDINGS:

The Planning Commission, and City Council, are required to confirm the following findings for the approval of Development Code amendments.

1. Findings Required for All Development Code Amendments:
 - a. The proposed amendment is consistent with the general plan and any applicable specific plan; and
 - b. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the city.
2. Additional Finding for Development Code Amendments: The proposed amendment is internally consistent with other applicable provisions of this development code.

ATTACHMENTS:

- Attachment 1** – Matrix of proposed amendments
- Attachment 2** – Proposed section revisions

2022 Development Code Amendments

Item # 2.

Section	Current Text	Proposed Text	Purpose of Amendment
SHORT TERM RENTALS (STRs)			
Staff requests direction on whether Planning Commission/City Council would like to put a cap on the total number of allowed STRs in City. Currently, 40% of STRs (Hosted & Home) owners do not live in City limits. There are 23 Hosted STRs, 21 Vacation Home STRs, and 9 B&Bs			
17.44.205 Short Term Rentals	A. Purpose. This section provides standards for vacation rental homes and hosted short-term rental units...	ADD Each property is limited to one short term rental, and short-term rental units are not permitted in ADUs/Second Units.	To limit short term rentals in residential neighborhoods; to comply with State law, and to ensure the intent of this section (to minimize impacts on surrounding residential areas and to protect the residential character of the neighborhoods) is maintained.
17.44.205 Short Term Rentals	B. Standards for Hosted Short-Term Rental Units. C. Standards for Vacation Rental Homes.	ADD Pursuant to the intent of Government Code Section 65852.150, second units are prohibited from being used for short term rentals.	To clarify that short term rentals are only allowed from primary dwelling units. The intent is to reserve second units/ADUs for long term rental stock.
Table 3-3	<u>Lodging</u> Bed and breakfast inn; hosted short term rental units; vacation rental home 1 space for each guest room, plus 2 spaces for the manager or owner. For vacation rental home, - if owner or manager do not occupy home - 1 space per each guest room.	ADD May be accommodated through on-site tandem parking - managed by owner or operator.	Because most properties within the City can accommodate the off-street parking requirements for STRs via tandem parking, and tandem parking is unlikely to cause an issue as guests are likely renting STR together.
Table 2-7	Hosted Short Term Rental Vacation Home Rental	<u>Hosted Short Term Rental</u> Permitted in R-2 & R-3 if existing Legally Non-Conforming (LNC) Single Family Dwelling (SFD) <u>Vacation Home Rental</u> Permitted in R-2 & R-3 with approval of MUP and existing LNC SFD *STR use would be void if single family dwelling is replaced with multifamily use.	To allow for an exception to the restriction of STRs in multifamily zones where there is an existing single-family dwelling. The City has received multiple requests for STRs from SFDs in multifamily zones, this would address their desire to have access to the same use as SFDs in single family zones.
SIGNS			
Table 3-9 Sign Permit Review Authority	All monument signs and signs within specified areas - Development Review Committee - Issue	CHANGE All monument signs and signs within specified areas - Director - Issue	To expedite the process and lower the cost of Monument Sign permits by eliminating redundant review of plan submittals. Existing standards (17.38.080 B.) provide design guidelines used for approval.
Table 3-9 Sign Permit Review Authority	Murals DRC recommends to PC	REMOVE DRC review/recommendation - straight to PC for approval. (If proposed mural is in Historic District, Historic Commission review will be required).	Help expedite, and make less rigorous, the mural review process.

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2022 Development Code Amendments

Item # 2.

Section	Current Text	Proposed Text	Purpose of Amendment
ANIMAL KEEPING			
17.100.020	"Crop Production, Horticulture, Orchard, Vineyard."	ADD Beekeeping - "Pollinator apiary" means an apiary established for the pollination of commercial seed, fruit, nuts, or other commercial crops dependent upon bee pollination. Pollination apiaries are temporary in nature, and their longevity is determined by the specific crop to be pollinated.	To provide a definition of beekeeping and to support any commercial agricultural operations wanting to utilize a pollinator apiary in the City.
FOOD FACILITIES			
17.72.040 (E)(10)	Limited Term Permits E. Allowed Short-Term Activities. (10) Temporary Vendor Carts/Stands	CHANGE/ADD "Temporary Vendor Carts/Stands" to include "Mobile Food Facilities" (see attachment).	To create standards to allow temporary Mobile Food Facilities (not associated with a special event) on private property.
17.100.020		ADD Definition: "Mobile Food Facility (MFF)." Any vehicle used in conjunction with a commissary or other permanent food facility upon which food is sold or distributed at retail. (See attachment)	Definition matches Nevada County Environmental Health Department's definition of MFF. Any MFF applicants in the City will require Nev. County EH approval, so keeping with their definition will help align our interconnected processes.
Table 2-10	Cottage food allowed in Residential zones only	ADD Traditional Community Zones (TC, NC, NC-Flex, NG-3, NG-2)	To allow cottage food businesses in all residential zones, as required by State law.
SECOND UNITS/ACCESSORY DWELLING UNITS			
Table 2-10	Second Unit or Carriage House	ADD Note that Second Unit or Carriage House is permitted in all zones if there is an existing LNC SFD on the property	To allow owners/residents of LNC SFDs in non-residential zones to create second unit/ADU opportunities.
17.100.020	"Permanent Dwelling" is used to define "second unit or carriage house": A second permanent dwelling that is accessory to a primary dwelling on the same site.	REMOVE "Permanent dwelling" and replace with "dwelling unit"	To help provide clarification as there is no definition of "permanent dwelling" in the Development Code
17.21.080 - NG-2 Standards	Ancillary Building Max. 1 1/2 stories, 15' max.**	ADD Carriage House allowing 2 stories, 25' max height	Carriage House is above garage - height limit of 15' prohibits ability to construct unit.
17.100.020	"Second Unit" or "Carriage House"	CHANGE "Second Unit" to "Accessory Dwelling Unit (ADU)"	To update terminology so it aligns with current state standards.

2022 Development Code Amendments

Item # 2.

Section	Current Text	Proposed Text	Purpose of Amendment
PUBLIC ZONE			
Table 2-14	Uses currently listed as not permitted in OS zone: - Meeting Facility, public or private - Sports and active recreation facility - Studio - Art, dance, martial arts, music etc.	ADD Permitted (P*) designation, and Note: (4) *Permitted in City parks only	These recreational uses currently take place in City parks, so this update would help ensure City code is consistent with current land uses taking place in parks.
Table 2-14	Use Permit (UP) is required for park projects in the REC (Recreation) & P (Public) Zones	CHANGE To: P - Permitted Use	To help expedite park projects. Park projects would be approved by City Council and would not have to be reviewed by Planning Commission.
17.26.050 - OS Zone 17.26.060 - P Zone	17.26.050 - B. Criteria for Approval 17.26.060 - C.2. ...“ approved by the commission” Both sections refer to the “commission” for approval.	CHANGE “Commission” to “Council”	To clarify the approving body.
17.70.030 Table 7-1		ADD <u>Type of Action:</u> Park Projects <u>Dev. Code Sections:</u> 17.26.050 & 17.26.060 <u>Role of Review Authority:</u> Director - Recommend No Planning Commission Action City Council - Decision	Current Park projects are required to go to City Council for approval of funding and design. This action would prevent the confusion that’s occurred in the past where park projects approved by Council are brought to PC after Council’s approval.
FENCE & STRUCTURE HEIGHT MEASUREMENT AND PLACEMENT			
17.30.040 B. (1) Notes	A fence or wall up to eight feet in height may be allowed when the portions above six feet are of an open design (e.g., lattice, wrought iron or grille work); or where a solid fence up to eight feet is authorized by Minor Use Permit. A Building Permit also may be required.	ADD A fence or wall up to eight feet in height may be allowed when the portions above six feet are of an open <u>fencing</u> design (e.g., lattice, wrought iron or grille work); or where a solid fence up to eight feet is authorized by Minor Use Permit. A Building Permit also may be required.	To help provide clarification.
17.50.040 H.	Open Space Areas.	ADD Allow installation of decorative, open design fencing in the open space areas within watercourse setbacks.	To help separate bank and reduce encroachment into the creek/water
17.30.050 C.	Height Measurement. The maximum allowable height shall be measured as the vertical distance from the natural grade of the site to an imaginary plane located the maximum allowed number of feet above and parallel to the grade.	CHANGE/ADD The maximum allowable height shall be measured as the vertical distance from the eave or bottom of parapet of the structure to the finished grade. The finished grade shall not be artificially raised to gain additional building height.	To help clarify height measurement.

2022 Development Code Amendments

Item # 2.

Section	Current Text	Proposed Text	Purpose of Amendment
DENSITY BONUSES		PLANNED DEVELOPMENT PERMITS SUBDIVISIONS	
17.32.010	Affordable Housing Density Bonuses and Incentives	CHANGE Due to the fluidity of CA State Housing Density Bonus laws (SB 2222), staff proposes to edit this section to refer to state law throughout. (See attachment to review proposed edits)	To ensure City code doesn't conflict with state law. Staff will have a handout, to be updated annually, that will help summarize current state laws related to housing density bonuses.
17.72.050	Planned Development Permits. A. Purpose.	ADD "Planned Development permit applications are subject to the review and interpretation of the Community Development Director."	To help further support the purpose of Planned Development Permits: "flexibility in the application of development code standards."
17.72.050 C.1. a. & e.	C. Application Requirements. 1. a. Provision of affordable workforce housing units and a mix of housing types. e. Future short- and long-term fiscal impacts.	ADD a. "If" provision of affordable... "is proposed, then" the applicant shall... REMOVE e.	To help clean up this section and provide more clarity for developers. Measure E expands funding for such general fund purposes as increased police and fire services, enhancing parks and recreational services, and improving streets and sidewalks.
Article 8	Chapter 17.80 - Subdivision Ordinance Applicability and Administration	CHANGE Due to the fluidity of CA State laws (SB 9 & 10), staff proposes to edit this section to refer to state law throughout.	To ensure City code is consistent with state law. Staff will have a handout, to be updated annually, that will help summarize current state laws related to subdivisions.
17.80.080	Type of subdivision approval required.	ADD SB-9 - A proposed housing development containing no more than two residential units within a single-family residential zone shall be considered ministerially, without discretionary review or a hearing, if the proposed housing development meets the necessary requirements.	To update City codes to include definition of Senate Bill - 9 Staff has prepared a handout to provide to the public that summarizes the details and requirements of SB-9 application process.
17.80.110	Any interested person may appeal any decision of the director or city engineer to the commission and may appeal any decision of the commission to the council, in compliance with Chapter 17.91 (appeals).	ADD In accordance with Map Act 66452.5 - Any appeal of a project that includes a subdivision map <i>shall be filed with the clerk of the appeal board, or if there is none, with the clerk of the legislative body within 10 days after the action of the advisory agency from which the appeal is being taken.</i>	To ensure compliance with State law.

2022 Development Code Amendments

Item # 2.

Section	Current Text	Proposed Text	Purpose of Amendment
MISCELLANEOUS			
Table 2-10	Industry, Manufacturing & Processing Storage	ADD Storage - Vehicle - Permitted in M-1 zone	Cleanup item. There is a definition for vehicle storage in glossary, but no reference to use being allowed in any zone.
17.24.040 Tables 2-11 & 2-12	Height Limit refers to section 17.30.060	CHANGE To section 17.30.050 (060 is a typo and incorrect reference)	Cleanup item.
Table 2-13	Additional Zone Standards	REMOVE	Inapplicable.
Definitions	Extended Hour Retail. A business that is open to the public between the hours of 11 p.m., and 6 a.m.	REMOVE	Not used.
Definitions	Transect.	REMOVE definition and diagram	Inapplicable.
Tables 2-7, 2-10, 2-14	S - Permit requirement determined by specific use regulations	REMOVE	Not used.
Table 2-7 Day Care - Large	MUP required for all residential zone	REMOVE MUP requirement - permitted in all zones per SB 234	To comply with SB 234

17.72.040 Limited term permits.

E. Allowed Short-Term Activities. A limited term permit may authorize the following short-term activities within the specified time limits, but in no event for more than twelve months. Other activities that are proposed to occur for no more than twelve months, but do not fall within the categories defined below shall instead comply with the planning permit requirements and development standards that otherwise apply to the property.

10. ~~Temporary Vendor Carts/Stands~~Temporary Vendor Carts/Stands/Mobile Food Facility. A temporary ~~cart or stand~~cart or stand or mobile food facility may be used for the outdoor sales of food and beverages (e.g., fruit, hot dogs, ice cream) and merchandise, when conducted in compliance with the following standards:
- a. For the purposes of this section the following terms shall have the following definitions:
 - (1) Itinerant vendor shall mean and include:
 - (a) Any person who has no established place of business within the city and who is engaged in transient business, traveling from place to place for the purpose of selling any goods, merchandise, services, or wares, or for the purpose of taking orders for the sale of any goods, merchandise, services, or wares to be delivered or performed at some future time and date; and
 - (b) Any person who has obtained the proper city licenses, permits, and private permission to engage in a transient business in one location or set up a temporary location for the purpose of selling any goods, merchandise, services, or wares, or for the purpose of taking orders for the sale of any goods, merchandise, services, or wares to be delivered or performed at some future time and date.
 - (2) Street vendor shall mean and include any person who will stand or park any ~~cart or stand~~cart or stand or mobile food facility from which fruits, goods, merchandise, vegetables, wares, or food stuffs are sold, displayed, or offered for sale.
 - b. The ~~cart or stand~~cart or stand or mobile food facility may only operate within the confines of private courtyards, patios, plazas, interior gardens, or in parking lots if the applicant and property owner can demonstrate that the ~~cart or stand~~cart or stand or mobile food facility will not impact parking, and shall complement and enhance the shopping center's retail environment and enliven the streetscape within commercial zones of the city.
 - c. The ~~cart or stand~~cart or stand or mobile food facility may only operate within the commercial zones within the city.
 - d. Only one ~~cart or stand~~cart or stand or mobile food facility shall be allowed within a single shopping center.
 - e. The permit for the ~~cart or stand~~cart or stand or mobile food facility may be approved for up to twelve months. The permit may be extended by the director if a written request for extension is submitted before expiration of the permit. The permit may be extended for up to an additional twelve months.
 - f. The ~~cart or stand~~cart or stand or mobile food facility vendor may only operate in compliance with the following limitations. Except as otherwise provided in this section, no vendor shall operate within the city:
 - (1) Between the hours of ~~11:00 p.m. and 5:00 a.m.~~7:00 p.m. and 11:00 a.m. daily;

- (2) Within one thousand feet of any park, playground, public recreation facility, or school property;
 - (3) Within fifty feet of any public street intersection;
 - (4) In a manner which constitutes a violation of California Vehicle Code Section 22400 and 22507;
 - (5) In a city parking lot; or
 - (6) Within the downtown historic district, unless associated with a seasonal event authorized by a limited term permit issued in compliance with this section.
- g. The provisions of this subsection shall not apply to persons delivering articles upon order of or by agreement with a customer from a store or other fixed place of business or distribution.
- h. Each ~~cart or stand~~cart or stand or mobile food facility shall be ~~freestanding, non-motorized, portable, and~~ limited to the sale of beverages, food, and other like merchandise. Each cart or stand shall be freestanding, non-motorized, and portable.
- i. Each ~~cart or stand~~cart or stand or mobile food facility shall be approved individually as to its design and aesthetic characteristics, location, and size, including signs.
- j. A business license to operate the ~~cart or stand~~cart or stand or mobile food facility shall be obtained from the city.
- City business license approval will require approval of:
- i. City of Grass Valley Limited Term Permit
 - ii. Pursuant to the California Retail Food Code, the operator is required to obtain the applicable Food Facility permit from the Nevada County Department of Environmental Health.
- k. No ~~cart or stand~~cart or stand or mobile food facility, nor a portion of a ~~cart or stand~~cart or stand or mobile food facility, shall be located within the public right-of-way, nor impede the normal use of circulation aisles or driveways, nor be located in a manner that encourages customers to stop in the circulation aisle, driveway, or street to obtain vendor service.
- l. The vendor shall be responsible to ensure that the ~~cart or stand~~cart or stand or mobile food facility, and the area around the ~~cart or stand~~cart or stand or mobile food facility, shall be kept in a clean, neat, orderly, safe, and sanitary condition at all times.
- m. Each ~~cart or stand~~cart or stand or mobile food facility operating under the provisions of this subparagraph and in compliance with the permit issued under this section shall be equipped with a trash receptacle of a size sufficient to accommodate all of the trash and refuse generated by its vending activities.
- n. All signs associated with the ~~cart or stand~~cart or stand or mobile food facility shall be in compliance with Chapter 17.38 (signs).
- o. The vendor shall display the permit on their person at all times while engaged in any vending activities.
- p. The director may require the vendor to post a cash bond or other surety acceptable to the director to ensure compliance with any or all of the conditions identified in this subparagraph. The posting shall be in compliance with Section 17.74.050 (performance guarantees).

Title 17 - DEVELOPMENT CODE
Article 3 - SITE PLANNING AND PROJECT DESIGN STANDARDS
Chapter 17.32 AFFORDABLE HOUSING DENSITY BONUSES AND INCENTIVES

Chapter 17.32 AFFORDABLE HOUSING DENSITY BONUSES AND INCENTIVES

Sections:

17.32.010 Purpose.

17.32.020 Eligibility for bonus, incentives, or concessions.

17.32.030 Allowed density bonuses.

17.32.040 Allowed incentives or concessions.

17.32.050 Parking requirements in density bonus projects.

17.32.060 Bonus and incentives for housing with ~~child-care~~childcare facilities.

17.32.070 Continued availability.

17.32.080 Location and type of designated units.

17.32.090 Processing of bonus requests.

17.32.100 Density bonus agreement.

17.32.110 Control of resale.

17.32.120 Judicial relief, waiver of standards.

17.32.010 Purpose.

As required by Government Code Section 65915, this chapter offers density bonuses, and incentives or concessions for the development of housing that is affordable to the types of households and qualifying residents identified in Section 17.32.020 (eligibility for bonus, incentives, or concessions), below. This chapter is intended to implement the requirements of Government Code Section 65915, et seq., and the housing element of the general plan.

17.32.020 Eligibility for bonus, incentives, or concessions.

In order to be eligible for a density bonus and other incentives or concessions as provided by this chapter, a proposed housing development shall comply with the following requirements, and satisfy all other applicable provisions of this development code, except as provided by Section 17.32.040 (allowed incentives or concessions).

- A. Resident Requirements. A housing development proposed to qualify for a density bonus shall be designed and constructed so that it includes at least any one of the following:
1. Ten percent of the total number of proposed units are for lower income households, as defined in Health and Safety Code Section 50079.5;
 2. Five percent of the total number of proposed units are for very low-income households, as defined in Health and Safety Code Section 50105;
 3. The project is a senior citizen housing development as defined in Civil Code Sections 51.3 and 51.12, or is a mobile home park that limits residency based on age requirements for housing older persons in compliance with Civil Code Sections 798.76 or 799.5; or
 4. Ten percent of the total dwelling units in a common interest development as defined in Civil Code Section ~~1351~~ 4100 are for persons and families of moderate income, as defined in Health and Safety Code Section 50093, provided that all units in the development are offered to the public for purchase.
 5. Ten percent of the total units of a housing development for transitional foster youth, as defined in Section 66025.9 of the Education Code, disabled veterans, as defined in Section 18541, or homeless persons, as defined in the federal McKinney-Vento Homeless Assistance Act (42 U.S. C. Sec. 11301 et seq.). The units described in this subparagraph shall be subject to a recorded affordability restriction of 55 years and shall be provided at the same affordability level as very low-income units.
 6. Twenty percent of the total units for lower income students in a student housing development in accordance with Government Code Section 65915 (F) (I-IV).
 7. One hundred percent of all units in the development, including total units and density bonus units, but exclusive of a manager's unit or units, are for lower income households as defined by Section 50079.5 of the Health and Safety Code, except that up to 20 percent of the units in the development, including total units and density bonus units, may be for moderate-income households, as defined in Section 50053 of the Health and Safety Code.
- B. Applicant Selection of Basis for Bonus. For purposes of calculating the amount of the density bonus in compliance with Section 17.32.030 (allowed density bonuses), below, the applicant who requests a density bonus shall elect whether the bonus shall be awarded on the basis of Subsections A.1., 2., 3., ~~or 4.~~, 5, 6, or 7. above.
- C. Bonus Units Shall Not Qualify a Project. A density bonus granted in compliance with Section 17.32.030 (allowed density bonuses), below, shall not be included when determining the number of housing units that is equal to the percentages required by Subsection A.
- D. Minimum Project Size to Qualify for Density Bonus. The density bonus provided by this chapter shall be available only to a housing development of five or more dwelling units.
- E. Condominium Conversion Projects. A condominium conversion project for which a density bonus is requested shall comply with the eligibility and other requirements in Government Code Section 65915.5.

17.32.030 Allowed density bonuses.

The amount of a density bonus allowed in a housing development shall be determined by the council in compliance with this section. For the purposes of this chapter, "density bonus" means a density increase over the otherwise maximum allowable residential density under the applicable zone and designation of the land use element of the general plan as of the date of application by the applicant to the city.

A. Density Bonus. A housing project that complies with the eligibility requirements in Subparagraphs 17.32.020.A.1, 2., 3., or 4. 5, 6, or 7, shall be entitled to density bonuses as follows, unless a lesser percentage is proposed by the applicant.

1. Bonus for Units for Lower Income Households. A housing development that is eligible for a bonus in compliance with the criteria in Section 17.32.020.A.1 (ten percent of units for lower income households) shall be entitled to a density bonus calculated as follows.

Percentage of Low-Income Units Proposed	Percentage of Density Bonus
10	20
11	21.5
12	23
13	24.5
14	26
15	27.5
<u>16</u>	<u>29</u>
17	30.5
18	32
19	33.5
20	35
<u>21</u>	<u>38.75</u>
<u>22</u>	<u>42.5</u>
<u>23</u>	<u>46.25</u>
<u>24</u>	<u>50</u>

2. Bonus for Units for Very Low Income Households. A housing development that is eligible for a bonus in compliance with the criteria in Section 17.32.020.A.2 (five percent of units for very low income households) shall be entitled to a density bonus calculated as follows.

Percentage of Very Low-Income Units Proposed	Percentage of Density Bonus
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35
<u>12</u>	<u>38.75</u>

<u>13</u>	<u>42.5</u>
<u>14</u>	<u>46.25</u>
<u>15</u>	<u>50</u>

- 3. Bonus for Senior Citizen Development. A housing development that is eligible for a bonus in compliance with the criteria in Section 17.32.020.A.3 (senior citizen development or mobile home park) shall be entitled to a density bonus of twenty percent.
- 4. Bonus for Moderate Income Units in Common Interest Development. A housing development that is eligible for a bonus in compliance with the criteria in Section 17.32.020.A.4 (ten percent of units in a common interest development for persons and families of moderate income) shall be entitled to a density bonus calculated as follows.

Percentage of Moderate-Income Units Proposed	Percentage of Density Bonus
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
<u>41</u>	<u>38.75</u>

<u>42</u>	<u>42.5</u>
<u>43</u>	<u>46.25</u>
<u>44</u>	<u>50</u>

5. Density Bonus for Land Donation. When an applicant for a tentative map, parcel map, or other residential development approval donates land to the city in compliance with this subsection, the applicant shall be entitled to a density bonus for the entire development, as follows; provided that nothing in this subsection shall be construed to affect the authority of the city to require a developer to donate land as a condition of development.
- a. Basic Bonus. The applicant shall be entitled to a fifteen-percent increase above the otherwise maximum allowable residential density under the applicable general plan land use element designation and zoning for the entire development, and an additional increase as follows.

Percentage of Very Low-Income Units Proposed	Percentage of Density Bonus
10	15
11	16
<u>12</u>	<u>17</u>
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

- b. Increased Bonus. The increase in the table above shall be in addition to any increase in density required by Subsections A.1 through A.7.4, up to a maximum combined mandated density increase of thirty-five percent if an applicant seeks both the increase required in compliance with this Subsection A.5, as well as the bonuses provided by Subsections A.1 through A.7.4.
- c. Eligibility for Increased Bonus. An applicant shall be eligible for the increased density bonus provided by this subsection if all of the following conditions are met.

- (1) 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.
 - (2) 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 ten percent of the number of residential units of the proposed development.
 - (3) The transferred land is at least one acre, or of sufficient size to permit development of at least forty units, has the appropriate general plan designation, is appropriately zoned for development as affordable housing, and is or will be served by adequate public facilities and infrastructure. The land shall have appropriate zoning and development standards to make the development of the affordable units feasible.
 - (4) No later than the date of approval of the final subdivision map, parcel map, or of the residential development, 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, except that the city may subject the proposed development to subsequent design review to the extent authorized by Government Code Section 65583.2(l) if the design is not reviewed by the city before the time of transfer.
 - (5) The transferred land and the affordable units shall be subject to a deed restriction ensuring continued affordability of the units consistent with Section 17.32.070 (continued availability), below, which shall be recorded on the property at the time of dedication.
 - (6) The land is transferred to the city or to a housing developer approved by the city. The city may require the applicant to identify and transfer the land to the approved housing developer.
 - (7) The transferred land shall be within the boundary of the proposed development or, if the city agrees, within one-quarter mile of the boundary of the proposed development.
 - (8) 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.
- B. Greater or Lesser Bonuses. The city may choose to grant a density bonus greater than provided by this section for a development that meets the requirements of this section, or grant a proportionately lower density bonus than required by this section for a development that does not comply with the requirements of this section.
- C. Density Bonus Calculations. The calculation of a density bonus in compliance with this section that results in fractional units shall be rounded up to the next whole number, as required by state law. For the purpose of calculating a density bonus, the residential units do not have to be based upon individual subdivision maps or parcels.
- D. Requirements for Amendments or Discretionary Approval. The granting of a density bonus shall not be interpreted, in and of itself, to require a general plan amendment, zoning map amendment, or other discretionary approval.

- E. Location of Bonus Units. The developer may locate density bonus units in the housing project in other than the areas where the units for the lower income households are located.

17.32.040 Allowed incentives or concessions.

A. Applicant Request and City Approval.

1. An applicant for a density bonus in compliance with this chapter may submit to the city a proposal for the specific incentives or concessions listed in Subsection C. (Type of incentives), below, that the applicant requests in compliance with this section, and may request a meeting with the director. The applicant may file their request either before an application for city approval of the proposed project, or concurrently with the application for project approval. The council shall grant an incentive or concession request that complies with this section unless the council makes either of the following findings in writing, based upon substantial evidence:
 - a. The incentive or concession is not required to provide for affordable housing costs, as defined in Health and Safety Code Section 50052.5, or for rents for the targeted units to be set as specified in Section 17.32.070.B. (unit cost requirements); or
 - b. The incentive or concession would have a specific adverse impact, as defined in Government Code Section 65589.5(d)(2), upon public health and safety or the physical environment, or on any real property 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 incentive or concession would be contrary to state or federal law.
2. The applicant shall show that a waiver or modification of development standards is necessary to make the housing units economically feasible.

B. Number of Incentives. The applicant shall receive the following number of incentives or concessions.

1. One Incentive or Concession. One incentive or concession for a project that includes at least ten percent of the total units for lower income households, at least five percent for very low-income households, or at least ten percent for persons and families of moderate income in a common interest development.
2. Two Incentives or Concessions. Two incentives or concessions for a project that includes at least ~~twenty~~ seventeen percent of the total units for lower income households, at least ten 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. Three incentives or concessions for a project that includes at least ~~thirty~~ twenty-four percent of the total units for lower income households, at least fifteen percent for very low-income households, or at least thirty percent for persons and families of moderate income in a common interest development.
4. Four Incentives or Concessions for projects meeting the criterial of subparagraph (G) of paragraph (1) of subdivision (b). If the project is located within on-half mile of a major transit stop, the applicant shall also receive a height increase of up to three additional stories or 33 feet.

C. Type of Incentives. For the purposes of this chapter, concession or incentive means any of the following:

1. A reduction in the site development standards of this development code (e.g., site coverage limitations, setbacks, reduced parcel sizes, and/or parking requirements (see also Section 17.32.050 [parking requirements in density bonus projects]), or architectural design requirements that exceed the

- minimum building standards approved by the California Building Standards Commission in compliance with Health and Safety Code Section 18901 et seq., that would otherwise be required, that results in identifiable, financially sufficient, and actual cost reductions;
2. Approval of mixed-use zoning not otherwise allowed by this development code in conjunction with the housing development, if nonresidential land uses will reduce the cost of the housing development, and the nonresidential land uses are compatible with the housing project and the existing or planned development in the area where the project will be located;
 3. Other regulatory incentives proposed by the applicant or the city that will result in identifiable, financially sufficient, and actual cost reductions; and/or
 4. In its sole and absolute discretion, a direct financial contribution granted by the council, including writing-down land costs, subsidizing the cost of construction, or participating in the cost of infrastructure.
- D. Effect of Incentive or Concession. The granting of a concession or incentive shall not be interpreted, in and of itself, to require a general plan amendment, zoning map amendment, or other discretionary approval.

17.32.050 Parking requirements in density bonus projects.

- A. Applicability. This section applies to a development that meets the requirements of Section 17.32.020 (eligibility for bonus, incentives, or concessions), above, but only at the request of the applicant. An applicant may request additional parking incentives or concessions beyond those provided in this section in compliance with Section 17.32.040 (allowed incentives or concessions), above.
- B. Number of Parking Spaces Required.
 1. At the request of the applicant, the city shall require the following vehicular parking ratios for a project that complies with the requirements of Section 17.32.020 (eligibility for bonus, incentives, or concessions), above, inclusive of handicapped and guest parking.
 - a. Zero to one bedrooms: One on-site parking space.
 - b. Two to three bedrooms: ~~Two~~ One and one-half on-site parking spaces.
 - c. Four and more bedrooms: Two and one-half on-site parking spaces.
 - d. If the development includes at least 20 percent low-income units for housing developments or at least 11 percent very low-income units is located one-half mile of a major transit stop and there is unobstructed access to the major transit stop from the development, then upon the request of the developer, the City shall not impose a vehicular parking ratio, inclusive of parking for persons with a disability and guests, that exceeds 0.5 spaces per unit.
 - i. For purposes of this subdivision, a development shall have unobstructed access to a major transit stop if a resident is able to access the major transit stop without encountering natural or constructed impediments. For the purposes of this subparagraph, "natural or constructed impediments" includes, but is not limited to, freeways, rivers, mountains, and bodies of water, but does not include residential structures, shopping centers, parking lots, or rails used for transit.
 - e. If a development consists solely of rental units, exclusive of a manager's unit, with an affordable housing cost to lower income families, then, upon request fo the developer, the City shall not impose vehicular parking standards if the development meets either of the following criteria
 - i. The development is located within one-half mile of a major transit stop and there is unobstructed access to the major transit stop from the development.

ii. The development is a for-rent housing development for individuals who are 62 years of age or older that complies with Sections 51.2 and 51.3 of the Civil Code and the development has either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates as least eight time per day.

- f. If a development consists solely of rental units, exclusive of a manager's unit, with an affordable housing cost to lower income families, as provided in Section 50052.5 of the Health and Safety Code, and the development is either a special needs housing development, as defined in Section 51312 of the Health and Safety Code, or a supportive housing development, as defined in Section 50675.14 of the Health and Safety Code, then, upon the request of the developer, the City shall not impose any minimum vehicular parking requirement. A developer shall have either paratransit service or unstructured access, within one-half mile, to fixed bus route service that operates as least 8 time per day.
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.
- C. Location of Parking. For purposes of this section, a development may provide on-site parking through uncovered parking, but not through on-street parking.

17.32.060 Bonus and incentives for housing with ~~child-care~~childcare facilities.

A housing development that complies with the resident and project size requirements of Subsections 17.32.020.A., and B., above, and also includes as part of that development a ~~child-care~~childcare facility other than a large or small family day care home, that will be located on the site of, as part of, or adjacent to the development, shall be subject to the following additional bonus, incentives, and requirements.

- A. Additional Bonus and Incentives. The city shall grant a housing development that includes a child care facility in compliance with this section either of the following:
1. An additional density bonus that is an amount of floor area in square feet of residential space that is equal to or greater than the floor area of the ~~child-care~~childcare facility; or
 2. An additional incentive that contributes significantly to the economic feasibility of the construction of the ~~child-care~~childcare facility.
- B. Requirements to Qualify for Additional Bonus and Incentives.
1. The city shall require, as a condition of approving the housing development, that:
 - a. The ~~child-care~~childcare 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 in compliance with Section 17.32.070 (continued availability), below; and
 - b. Of the children who attend the ~~child-care~~childcare 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 in compliance with Subsection 17.32.020.A (resident requirements), above.
 2. The city shall not be required to provide a density bonus for a ~~child-care~~childcare facility in compliance with this section if it finds, based upon substantial evidence, that the community has adequate ~~child-care~~childcare facilities.

17.32.070 Continued availability.

The units that qualified the housing development for a density bonus and other incentives and concessions shall continue to be available as affordable units in compliance with the following requirements, as required by Government Code Section 65915(c). See also Section 17.32.110 (control of resale).

- A. Duration of Affordability. The applicant shall agree to, and the city shall ensure the continued availability of the units that qualified the housing development for a density bonus and other incentives and concessions, as follows.
 1. Low- and Very Low-Income Units. The continued affordability of all low- and very low-income qualifying units shall be maintained for ~~fifty-five years~~ thirty years, or a longer time if required by the construction or mortgage financing assistance program, mortgage insurance program, rental subsidy program, or by city policy or ordinance.
 2. Moderate Income Units in Common Interest Development. The continued availability of moderate-income units in a common interest development shall be maintained for a minimum of ten years, or a longer time if required by city policy or ordinance.
- B. Unit Cost Requirements. The rents and owner-occupied costs charged for the housing units in the development that qualify the project for a density bonus and other incentives and concessions, shall not exceed the following amounts during the period of continued availability required by this section:
 1. Lower Income Units. Rents for the lower income density bonus units shall be set at an affordable rent as defined in Health and Safety Code Section 50053; and
 2. Owner-Occupied Units. Owner-occupied units shall be available at an affordable housing cost as defined in Health and Safety Code Section 50052.5.
- C. Occupancy and Resale of Moderate-Income Common Interest Development Units. An applicant shall agree to, and the city shall ensure that the initial occupant of moderate-income units that are directly related to the receipt of the density bonus in a common interest development as defined in Civil Code Section 1351, are persons and families of moderate income, as defined in Health and Safety Code Section 50093, and that the units are offered at an affordable housing cost, as defined in Health and Safety Code Section 50052.5. The city shall enforce an equity sharing agreement unless it is in conflict with the requirements of another public funding source or law. The following requirements apply to the equity sharing agreement.
 1. 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.
 2. The city shall recapture any additional subsidy and its proportionate share of appreciation, which shall then be used within three years for any of the purposes described in Health and Safety Code Section 33334.2(e) that promote home ownership. For the purposes of this section:
 - a. The city'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; and
 - b. The city's proportionate share of appreciation shall be equal to the ratio of the initial subsidy to the fair market value of the home at the time of initial sale.

17.32.080 Location and type of designated units.

- A. Location/Dispersal of Units. As required by the council in compliance with Section 17.32.090 (processing of bonus request), below, designated units shall be reasonably dispersed throughout the project where feasible, shall contain on average the same number of bedrooms as the non-designated units in the project, and shall be compatible with the design or use of remaining units in terms of appearance, materials, and finished quality.
- B. Phasing. If a project is to be phased, the density bonus units shall be phased in the same proportion as the non-density bonus units, or phased in another sequence acceptable to the city.

17.32.090 Processing of bonus request.

- A. Permit Requirement. A request for a density bonus and other incentives and concessions shall be evaluated and decided through use permit approval in compliance with Section 17.72.060 (use permits and minor use permits).
- B. Findings for Approval. In addition to the findings required by Section 17.72.060 for the approval of a use permit, the approval of a density bonus and other incentives and concessions shall require that the review authority first make all of the following additional findings:
 - 1. The residential development will be consistent with the general plan, except as provided by this chapter for density bonuses, and other incentives and concessions;
 - 2. The approved number of dwellings can be accommodated by existing and planned infrastructure capacities;
 - 3. Adequate evidence exists to indicate that the project will provide affordable housing in a manner consistent with the purpose and intent of this chapter; and
 - 4. There are sufficient provisions to guarantee that the units will remain affordable for the required time period.

17.32.100 Density bonus agreement.

- A. Agreement Required. An applicant requesting a density bonus shall agree to enter into a density bonus agreement (referred to as the "agreement") with the city in the city's standard form of agreement.
- B. Agreement Provisions.
 - 1. Project Information. The agreement shall include at least the following information about the project:
 - a. The total number of units approved for the housing development, including the number of designated dwelling units;
 - b. A description of the household income group to be accommodated by the housing development, and the standards and methodology for determining the corresponding affordable rent or affordable sales price and housing cost consistent with HUD Guidelines;
 - c. The marketing plan for the affordable units;
 - d. The location, unit sizes (square feet), and number of bedrooms of the designated dwelling units;
 - e. Tenure of the use restrictions for designated dwelling units of the time periods required by Section 17.32.070 (continued availability);
 - f. A schedule for completion and occupancy of the designated dwelling units;

- g. A description of the additional incentives and concessions being provided by the city;
 - h. A description of the remedies for breach of the agreement by the owners, developers, and/or successors-in-interest of the project;
 - i. Other provisions to ensure successful implementation and compliance with this chapter; and
 - j. An audit of the developer's financial information or proforma of the project to substantiate that the requested concessions and incentives are required in order to make the dwelling units economically feasible in compliance with this chapter.
2. Minimum Requirements. The agreement shall provide, at minimum, that:
- a. The developer shall give the city the continuing right-of-first-refusal to lease or purchase any or all of the designated dwelling units at the appraised value;
 - b. The deeds to the designated dwelling units shall contain a covenant stating that the developer or successors-in-interest shall not assign, lease, rent, sell, sublet, or otherwise transfer any interests for designated units without the written approval of the city;
 - c. When providing the written approval, the city shall confirm that the price (rent or sale) of the designated dwelling unit is consistent with the limits established for low and very low-income households, as published by HUD;
 - d. The city shall have the authority to enter into other agreements with the developer, or purchasers of the designated dwelling units, to ensure that the required dwelling units are continuously occupied by eligible households;
 - e. Applicable deed restrictions, in a form satisfactory to the city attorney, shall contain provisions for the enforcement of owner or developer compliance. Any default or failure to comply may result in foreclosure, specific performance, or withdrawal of the certificate of occupancy;
 - f. In any action taken to enforce compliance with the deed restrictions, the city attorney shall, if compliance is ordered by a court of competent jurisdiction, take all action that may be allowed by law to recover all of the city's costs of action including legal services; and
 - g. Compliance with the agreement will be monitored and enforced in compliance with the measures included in the agreement.
3. For-sale Housing Conditions. In the case of for-sale housing developments, the agreement shall provide for the following conditions governing the initial sale and use of designated dwelling units during the applicable restriction period:
- a. Designated dwelling units shall be owner-occupied by eligible households, or by qualified residents in the case of senior housing; and
 - b. The initial purchaser of each designated dwelling unit shall execute an instrument or agreement approved by the city which:
 - (1) Restricts the sale of the unit in compliance with this chapter, or other applicable city policy or ordinance, during the applicable use restriction period;
 - (2) Contains provisions as the city may require to ensure continued compliance with this chapter and state law; and
 - (3) Shall be recorded against the parcel containing the designated dwelling unit.
4. Rental Housing Conditions. In the case of a rental housing development, the agreement shall provide for the following conditions governing the use of designated dwelling units during the use restriction period:

- a. The rules and procedures for qualifying tenants, establishing affordable rent, filling vacancies, and maintaining the designated dwelling units for qualified tenants;
 - b. Provisions requiring owners to annually verify tenant incomes and maintain books and records to demonstrate compliance with this chapter;
 - c. Provisions requiring owners to submit an annual report to the city, which includes the name, address, and income of each person occupying the designated dwelling units, and which identifies the bedroom size and monthly rent or cost of each unit; and
 - d. The applicable use restriction period shall comply with the time limits for continued availability in Section 17.32.070 (continued availability), above.
- C. Execution of Agreement.
1. Following council approval of the agreement, and execution of the agreement by all parties, the city shall record the completed agreement on the parcels designated for the construction of designated dwelling units, at the county recorder's office.
 2. The approval and recordation shall take place at the same time as the final map or, where a map is not being processed, before issuance of building permits for the designated dwelling units.
 3. The agreement shall be binding on all future owners, developers, and/or successors-in-interest.

17.32.110 Control of resale.

In order to maintain the availability of for-sale affordable housing units constructed in compliance with this chapter, the following resale conditions shall apply:

- A. **Limits on Resale Price.** The price received by the seller of an affordable unit shall be limited to the purchase price plus an increase based on the Sacramento Metropolitan Area Consumer Price Index, an amount consistent with the increase in the median income since the date of purchase, or the fair market value, whichever is less. Before offering an affordable housing unit for sale, the seller shall provide written notice to the city of their intent to sell. The notice shall be provided by certified mail to the director.
- B. **Units to Be Offered to the City.** Home ownership affordable units constructed, offered for sale, or sold under the requirements of this section shall be offered to the city or its assignee for a period of at least ninety days from the date of the notice of intent to sell is delivered to the city by the first purchaser or subsequent purchasers. Home ownership affordable units shall be sold and resold from the date of the original sale only to households as determined to be eligible for affordable units by the city in compliance with this section. The seller shall not levy or charge any additional fees nor shall any "finders fee" or other monetary consideration be allowed other than customary real estate commissions and closing costs.
- C. **Declaration of Restrictions.** The owners of any affordable unit shall attach and legally reference in the grant deed conveying title of the affordable ownership unit a declaration of restrictions provided by the city, stating the restrictions imposed in compliance with this section. The grant deed shall afford the grantor and the city the right to enforce the declaration of restrictions. The declaration of restrictions shall include all applicable resale controls, occupancy restrictions, and prohibitions required by this section.
- D. **City to Monitor Resale of Units.** The city shall monitor the resale of ownership affordable units. The city or its designee shall have a ninety-day option to commence purchase of ownership affordable units after the owner gives notification of intent to sell. Any abuse in the resale provisions shall be referred to the city for appropriate action.

17.32.120 Judicial relief, waiver of standards.

- A. **Judicial Relief.** As provided by Government Code Section 65915(d)(3), the applicant may initiate judicial proceedings if the city refuses to grant a requested density bonus, incentive, or concession.
- B. **Waiver of Standards Preventing the Use of Bonuses, Incentives, or Concessions.**
 - 1. As required by Government Code Section 65915(e), the city will not apply a development standard that will have the effect of precluding the construction of a development meeting the criteria of Subsection 17.32.020.A (resident requirements), above, at the densities or with the concessions or incentives allowed by this chapter.
 - 2. An applicant may submit to the city a proposal for the waiver or reduction of development and zoning standards that would otherwise inhibit the utilization of a density bonus on a specific site, including minimum parcel size, side setbacks, and placement of public works improvements.
 - 3. The applicant shall show that the waiver or modification is necessary to make the housing units economically feasible.
- C. **City Exemption.** Notwithstanding the provisions of Subsections A. and B., above, nothing in this section shall be interpreted to require the city to:
 - 1. Grant a density bonus, incentive, or concession, or waive or reduce development standards, if the bonus, incentive, concession, waiver, or reduction, would have a specific, adverse impact, as defined in Government Code Section 65589.5(d)(2), upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact; or
 - 2. Grant a density bonus, incentive or concession, or 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.

17.72.040 Limited term permits.

E. Allowed Short-Term Activities. A limited term permit may authorize the following short-term activities within the specified time limits, but in no event for more than twelve months. Other activities that are proposed to occur for no more than twelve months, but do not fall within the categories defined below shall instead comply with the planning permit requirements and development standards that otherwise apply to the property.

10. ~~Temporary Vendor Carts/Stands~~Temporary Vendor Carts/Stands/Mobile Food Facility. A temporary ~~cart or stand~~cart or stand or mobile food facility may be used for the outdoor sales of food and beverages (e.g., fruit, hot dogs, ice cream) and merchandise, when conducted in compliance with the following standards:

a. For the purposes of this section the following terms shall have the following definitions:

(1) Itinerant vendor shall mean and include:

(a) Any person who has no established place of business within the city and who is engaged in transient business, traveling from place to place for the purpose of selling any goods, merchandise, services, or wares, or for the purpose of taking orders for the sale of any goods, merchandise, services, or wares to be delivered or performed at some future time and date; and

(b) Any person who has obtained the proper city licenses, permits, and private permission to engage in a transient business in one location or set up a temporary location for the purpose of selling any goods, merchandise, services, or wares, or for the purpose of taking orders for the sale of any goods, merchandise, services, or wares to be delivered or performed at some future time and date.

(2) Street vendor shall mean and include any person who will stand or park any ~~cart or stand~~cart or stand or mobile food facility from which fruits, goods, merchandise, vegetables, wares, or food stuffs are sold, displayed, or offered for sale.

b. The ~~cart or stand~~cart or stand or mobile food facility may only operate within the confines of private courtyards, patios, plazas, interior gardens, or in parking lots if the applicant and property owner can demonstrate that the ~~cart or stand~~cart or stand or mobile food facility will not impact parking, and shall complement and enhance the shopping center's retail environment and enliven the streetscape within commercial zones of the city.

c. The ~~cart or stand~~cart or stand or mobile food facility may only operate within the commercial zones within the city.

d. Only one ~~cart or stand~~cart or stand or mobile food facility shall be allowed within a single shopping center.

e. The permit for the ~~cart or stand~~cart or stand or mobile food facility may be approved for up to twelve months. The permit may be extended by the director if a written request for extension is submitted before expiration of the permit. The permit may be extended for up to an additional twelve months.

f. The ~~cart or stand~~cart or stand or mobile food facility vendor may only operate in compliance with the following limitations. Except as otherwise provided in this section, no vendor shall operate within the city:

(1) Between the hours of ~~11:00 p.m. and 5:00 a.m.~~7:00 p.m. and 11:00 a.m. daily;

- (2) Within one thousand feet of any park, playground, public recreation facility, or school property;
 - (3) Within fifty feet of any public street intersection;
 - (4) In a manner which constitutes a violation of California Vehicle Code Section 22400 and 22507;
 - (5) In a city parking lot; or
 - (6) Within the downtown historic district, unless associated with a seasonal event authorized by a limited term permit issued in compliance with this section.
- g. The provisions of this subsection shall not apply to persons delivering articles upon order of or by agreement with a customer from a store or other fixed place of business or distribution.
- h. Each ~~cart or stand~~cart or stand or mobile food facility shall be ~~freestanding, non-motorized, portable, and~~ limited to the sale of beverages, food, and other like merchandise. Each cart or stand shall be freestanding, non-motorized, and portable.
- i. Each ~~cart or stand~~cart or stand or mobile food facility shall be approved individually as to its design and aesthetic characteristics, location, and size, including signs.
- j. A business license to operate the ~~cart or stand~~cart or stand or mobile food facility shall be obtained from the city.
- City business license approval will require approval of:
- i. City of Grass Valley Limited Term Permit
 - ~~ii.~~ Pursuant to the California Retail Food Code, the operator is required to obtain the applicable Food Facility permit from the Nevada County Department of Environmental Health.
- k. No ~~cart or stand~~cart or stand or mobile food facility, nor a portion of a ~~cart or stand~~cart or stand or mobile food facility, shall be located within the public right-of-way, nor impede the normal use of circulation aisles or driveways, nor be located in a manner that encourages customers to stop in the circulation aisle, driveway, or street to obtain vendor service.
- l. The vendor shall be responsible to ensure that the ~~cart or stand~~cart or stand or mobile food facility, and the area around the ~~cart or stand~~cart or stand or mobile food facility, shall be kept in a clean, neat, orderly, safe, and sanitary condition at all times.
- m. Each ~~cart or stand~~cart or stand or mobile food facility operating under the provisions of this subparagraph and in compliance with the permit issued under this section shall be equipped with a trash receptacle of a size sufficient to accommodate all of the trash and refuse generated by its vending activities.
- n. All signs associated with the ~~cart or stand~~cart or stand or mobile food facility shall be in compliance with Chapter 17.38 (signs).
- o. The vendor shall display the permit on their person at all times while engaged in any vending activities.
- p. The director may require the vendor to post a cash bond or other surety acceptable to the director to ensure compliance with any or all of the conditions identified in this subparagraph. The posting shall be in compliance with Section 17.74.050 (performance guarantees).