



PLANNING DIRECTOR BULLETIN NO. 6 IMPLEMENTING THE STATE DENSITY BONUS PROGRAM

This Bulletin is an overview of the State Density Bonus Law and describes the implementation procedures for projects seeking to use the program in San Francisco.

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References:
Government Code Section 65915
Planning Code Section 206.6

BACKGROUND:

The California State Density Bonus Law (“State Law”), California Government Code section 65915, offers development incentives to projects that provide on-site affordable housing. The State Law offers three categories of benefits:

1. A project may seek an increase in residential density;
2. A project may receive incentives or concessions (generally defined as a reduction of development standards, modifications of zoning code requirements, or approval of mixed-use zoning) to offset the costs of providing affordable housing on-site; and
3. The City must waive any local development standard that would preclude construction of the project with the additional density or the incentives or concessions.

The amount of the density bonus and the number of incentives or concessions depends on the amount and level of affordability of the on-site affordable units.

The City adopted the Individually Requested State Density Bonus Program (Planning Code Section 206.6) in 2017 to implement the State Law.

HOW DOES SAN FRANCISCO IMPLEMENT THE STATE DENSITY BONUS PROGRAM?

Calculating a Density Bonus

Base Density

State Law allows projects to receive up to 50% additional residential density over the maximum allowable residential density. To determine the maximum allowable residential density, Planning Department staff must calculate the principally permitted density under current controls (“base density”). Residential density regulations in San Francisco vary by zoning district. In some districts, residential density is regulated by a ratio of units to lot area, such as one unit per 600 square feet. In these districts, base density is the maximum number of units allowed by the zoning district. Other districts use form-based density, where residential density is regulated by the permitted building volume – either the maximum floor area ratio (FAR) or a maximum building volume controlled by height, bulk, and setback controls (“form-based zoning”). In areas with form-based zoning, the base density is the maximum residential gross floor area principally permitted under current zoning and any additional requirements set forth in this Bulletin.

In form-based zoning districts, applicants must demonstrate that the base density can be achieved as a Code-conforming project that requires no waivers, modifications, exceptions, or variances from the Planning Code. This evidence must be presented in the form of a “base density study” submittal, which is a set of schematic plans that comply with Planning Department’s [Plan Submittal Guidelines](#). Architectural details, including floor plans for upper floors, will not be required for a base density study. The applicant shall submit a Code-compliant building massing, building section, and floor plans for the ground floor. Wind controls will not be evaluated as part of the base density study. A project that maximizes the density bonus may be eligible for an additional bonus as on January 1, 2024. Please see below for additional information

In cases where the Planning Code allows for increased density through a discretionary entitlement process (i.e. Conditional Use authorization), additional density achieved through the required discretionary entitlement shall not be included in the calculation of base density. For example, projects in the Residential Transit Oriented (RTO) District have a principally permitted dwelling unit density of one unit per 600 square feet of lot area, but require a Conditional Use authorization to exceed one unit per 600 feet of lot area. The base density in RTO is determined based on one unit per 600 square feet of lot area.

In cases where the Planning Code requires a discretionary entitlement due to the size of the lot, and not the size and/or density of a proposed development, a project may assume maximum allowable density permitted on the lot as the base density, provided that the base density study is otherwise Code-compliant. For example, projects in Neighborhood Commercial Districts (NC) that require a Conditional Use authorization because it is located on a lots greater than 10,000 square feet may assume the maximum allowable density on a 10,000 square foot lot as the base density.

The Planning Department applies the following provisions when calculating the base density:

- Base density is calculated using “Residential Gross Floor Area,” which means any floor area that would be counted as Gross Floor Area as defined in Planning Code Section 102 that is dedicated to the residential uses in the property. (December 2018)
- The base density does not need to account for compliance with wind or shadow requirements. (December 2018)
- Sub-grade residential floor area¹ shall not count as residential floor area in either the base density study or bonus project for the purposes of calculating the maximum residential floor area.² (July 2019)
- Certain zoning districts do not have a rear yard setback requirement under Planning Code Section 134. Instead, setbacks in these districts are controlled by lot coverage provisions. Projects in Central SOMA (Section 249.78(d)(6)) and the Downtown Residential District (DTR – Section 825(b)(2)) shall calculate base density assuming 80% coverage on all residential levels. The base density study may not assume full lot coverage. (July 2019)
- The base density study shall assume a floor-to-floor height of 9 feet, except that the ground floor ceiling height must comply with requirements set forth in Planning Code Section 145 (December 2020, updated May 2021)
- If the Planning Code requires replacement of Production Distribution Repair (PDR) uses, the Base Density study must include this replacement on the ground floor. (December 2020)
- In C-3 and Central SOMA Districts, a base density study may assume the use of Transferable Development Rights (TDR), however the same amount of TDR assumed in the base project must be purchased for the bonus project. In these districts, if the project seeks a waiver or incentive from FAR for its bonus project, then the sponsor need not purchase TDR for the amount of bonus GFA above what is assumed in the base project. (February 2023)

¹ Sub-Grade residential floor area is defined as any floor area that is located below the First Story, as defined in Section 102.

² This interpretation applies to the calculation of maximum residential density for the purpose of implementing the State Law ONLY and does not apply to the calculation of Gross Floor Area for other purposes, including FAR and Impact Fee assessments.

For sites where there are existing buildings that will remain, the base density will be calculated using the remaining development potential of the subject lot, which will be determined either by calculating the remaining number of dwelling units principally permitted on the site in districts where density is controlled by lot area, or by calculating the difference in the amount of existing gross floor area and the maximum allowable gross floor area under the existing zoning, in form-based zoning districts. A project sponsor may also count any existing non-residential floor area that will be converted into residential floor area in the bonus project towards the base density, as long as the base density also assumes that the sponsor will comply with rear yard setback or lot coverage requirements, as applicable.

Bonus Project

The amount of additional density that a project may seek is set forth in the State Law. The maximum density bonus is an additional 50% above the base density and is based on the amount of affordable housing in the base project and the level of affordability provided in the project. To determine the percentage of density bonus allowed based upon affordable units provided, review the State Law, or consult the density bonus charts included in the [Individually Requested State Density Bonus Program Supplemental Application](#). In areas where density is controlled as a ratio of units to lot area, the maximum density bonus will be calculated as 150% of the base density represented as number of units allowed on the site. Any fraction of unit is rounded up to the next whole number. In areas with form-based density, the maximum density bonus will be calculated as 150% of the residential gross floor area permitted in the base density study.

Additional Bonus

Effective January 1, 2024, AB 1287 allows a project sponsor to seek an additional density bonus of up to 50% in exchange for providing additional very-low income or moderate-income units on site. A project that receives a maximum density bonus by providing either 15% of the units at very-low income (50% AMI), 24% of the units at lower income (80%AMI), or 44% of the units at moderate income (120%AMI), is eligible to receive an additional density bonus of up to 50% in exchange for additional affordable units in the base project. In an ownership or rental project, a sponsor may provide up to an additional 10% of the number of units in the base project at the very-low income level, which would result in up to an additional 38.75% bonus. Alternatively, in an ownership project, the sponsor may provide up to an additional 15% of the number of units at the moderate-income level, which would result in up to an additional 50% bonus.

A project sponsor will use the same base density to calculate the additional bonus as was used to calculate the first bonus. The amount of affordable housing and the amount of density bonus will be added together. For example, a project with a base density of 100 units must provide 15% on-site affordable units, or 15 units, at very-low income to receive the maximum bonus of 50%, or 50 units. Then, the sponsor may provide an additional 10% of the 100-unit base, or 10 additional units, as affordable to very-low income households, which qualifies for an additional bonus of 38.75%, or 39 units. The overall bonus project will consist of 189 total units, with 25 on-site affordable units at very-low income.

Projects that receive an additional bonus are also eligible for an additional incentive. Please see the density bonus charts in the Individually Requested State Density Bonus Application on pages 7-8 for more information.

100% Affordable Housing Projects

State Density Bonus Law provides a special program for 100% affordable housing projects that are within 1/2 mile of a major transit stop. Under this program, 100% affordable projects will receive unlimited density, three additional stories in height (or 33 feet), up to four incentives or concessions, and unlimited waivers. Exclusive of a manager's unit or units, one hundred percent of the total units must be for low or very-low income households, except that up to 20 percent of the total units in the development may be for moderate-income households.

Other Density Bonuses

State Law also provides a density bonus for student housing, senior housing, transitional foster youth, disabled veterans, or homeless persons. When 20% of a proposed student housing development is dedicated for lower income students, a project may receive a 35% bonus. When 10% of the units in a project are devoted to transitional foster youth, disabled veterans, or homeless persons, a project may receive a 20% bonus. A 20% bonus is also available for a senior housing development. The State Law also provides bonuses for land dedication and childcare facilities. Please see Government Code Section 65915 for additional eligibility requirements.

Requests for Incentives, Concessions, and Waivers

Incentives or Concessions

The State Law allows a project the right to request up to five incentives or concessions “that are required to provide for affordable housing costs.”³ An incentive or concession can be a reduction in site development standards, a modification of zoning code requirements, approval of mixed-use zoning, or other regulatory incentives or concessions that “result in identifiable and actual cost reductions.”⁴ The terms “incentives” and “concessions” are interchangeable; for the purposes of this document, they will be referred to simply as “incentives.”

The number of incentives the project may request depends on the number of affordable units provided and the level of affordability, as described in the table below. In addition, Student housing projects are eligible for one incentive.

Target Income Group	Percentage of Affordable Units Provided in the Base Project				
	5%	10%	15%	16%	-
Very Low Income	5%	10%	15%	16%	-
Low Income	10%	17%	24%	-	100%
Moderate Income	10%	20%	30%	45%	-
Maximum Number of Incentives/Concessions	1	2	3	4	5

The Project Sponsor must include the requested incentive(s) in the [Individually Requested State Density Bonus Supplemental Application](#), along with the base density study and plans for the density bonus project. The City will approve the requested incentives unless it finds that they 1) will not result in identifiable and actual cost reductions; 2) will have specific adverse impacts on public health or safety; 3) will have specific adverse impacts on property that is listed on the California Register of Historic Resources that cannot be mitigated without rendering the development unaffordable to low-income and moderate-income households; or (4) would be contrary to state or federal law.

Project sponsors may seek up to five concessions and incentives, depending on the amount of affordable housing provided and the level of affordability of those units. Verification and documentation of these cost reductions and/or impacts on public health, safety, or historic property should include a site-specific analysis and may require a pro forma as a part of the application review. The Department may require an evaluation of the financial analysis by a qualified third-party consultant.

3 CA Govt. Code Section 65915(k)

4 CA Govt. Code Section 65915(k)

The following applies to any requested incentive:

- Incentives shall be granted only from Planning Code provisions, not standards in other City regulations.
- Except as provided in this Bulletin, a project cannot seek an incentive from any of the controls included in the Inclusionary Affordable Housing Program, including but not limited to, the Procedures Manual and Zoning Administrator Bulletin 10.
- Projects in form-based zoning districts, shall comply with Dwelling Unit Mix requirements included in Planning Code Sections 207.6 and 207.7.⁵
- Incentives from a required entitlement process or any required development impact fees shall not be allowed.
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Waivers

The Planning Code currently regulates the physical dimensions of residential development through requirements limiting height and bulk, or requiring open space, rear yards, dwelling unit exposure, and other requirements that may preclude the ability to construct the project with the bonus density and the requested incentives.

In accordance with the State Law, the City may not apply any development standards that will preclude the construction of the project with the bonus density or incentives within the permitted building envelope, unless the City finds that the requested waiver 1) would have a specific, adverse impact upon health or safety; 2) would have an adverse impact on any property listed in the California Register of Historical Resources that cannot be mitigated; or 3) is contrary to state or federal law.

The following provisions shall apply to requests for waivers:

- Waivers shall be granted only from Planning Code provisions, not standards in other City regulations.
- Projects in form-based zoning districts shall comply with Dwelling Unit Mix requirements included in Planning Code Sections 207.6 and 207.7.⁶

The applicant must identify the requested waivers in the [Individually Requested State Density Bonus Supplemental Application](#) and provide documentation to demonstrate that the development standard would preclude construction of the project with the additional density and the incentives.

⁵ A project sponsor may seek an incentive or a waiver from Dwelling Unit Mix requirements in form-based zoning districts if they can provide an alternate base density study demonstrating compliance with Section 207.6 or 207.7. This alternate base density study must include floor plans, and must comply with all of the objective standards set forth in the Planning Code and this Bulletin, including but not limited to dwelling unit mix, exposure, usable open space, rear yard, height, and bulk. The bonus project must maintain the average unit size (per unit type) as the base project, with a 10% variation allowed in GSF. If a sponsor elects this alternate process, the affordability and density bonus will be calculated as a number of units instead of additional Gross Floor Area.

⁶ A project sponsor may seek an incentive or a waiver from Dwelling Unit Mix requirements in form-based zoning districts if they can provide an alternate base density study demonstrating compliance with Section 207.6 or 207.7. This alternate base density study must include floor plans and must comply with all of the objective standards set forth in the Planning Code and this Bulletin, including but not limited to dwelling unit mix, exposure, usable open space, rear yard, height, and bulk. The bonus project must maintain the average unit size (per unit type) as the base project, with a 10% variation allowed in GSF. If a sponsor elects this alternate process, the affordability and density bonus will be calculated as a number of units instead of additional Gross Floor Area.

Review Process

Eligibility

A project must provide at least five net new units in the base project to qualify for the State Density Bonus Program. If an Accessory Dwelling Unit (ADU) can be constructed on a lot ministerially pursuant to State Law, then it may count towards the five unit minimum. ADUs that require a density waiver pursuant to Planning Code Section 207(c)(4) will not count towards the five unit minimum. Please see Section 206.6(b) and State Law for other eligibility requirements.

Submittal Requirements

Applicants must complete the [Individually Request State Density Bonus Supplemental Application](#). Applicants will be required to provide a base density study, if applicable, and a calculation of the allowable density bonus. The applicant must also submit plans for the bonus project that comply with the Department's [Plan Submittal Guidelines](#) before the application will be accepted for review.

The bonus project submittal must include a description of the requested incentives and any necessary waivers, and all relevant supporting documentation. Graphic representations to support the requests for waivers are required.

Process

For projects that require a Conditional Use authorization for demolition or a non-residential use or there have been residential tenants occupying the site within the last 10 years, approval by the Planning Commission is required. For projects that do not otherwise require a Planning Commission entitlement, the Planning Department must adopt findings that the requested incentives will result in actual cost reductions for the project, and the requested waivers and incentives will not negatively impact public health, safety, or historic property. A project sponsor cannot seek incentives or waivers from a required entitlement process or any required development impact fees.

Affordable or "restricted" units provided as part of a density bonus project shall be administrated by MOHCD. Planning Code Section 206.6 requires that the applicant enter into a regulatory agreement with the City that will be recorded on the deed of the property. The agreement will include details on the number, location, and affordability of the restricted units, a description of incentives and waivers approved by the City, and other provisions to ensure compliance with Section 206.6. A draft regulatory agreement must be provided to the Planning Department prior to the first discretionary hearing or building permit approval, and the regulatory agreement must be finalized and recorded prior to the issuance of the first construction document. Please contact the staff planner prior to the issuance of the site permit for the project to request a sample regulatory agreement.

Inclusionary Affordable Housing requirements in State Density Bonus projects

San Francisco's Inclusionary Affordable Housing Program (Planning Code section 415 et seq.) applies to the entirety of any development project with 10 or more units. Section 415 requires a project to pay the Affordable Housing Fee on the totality of units constructed. In lieu of the Affordable Housing Fee, projects may elect to provide a percentage of units as "below market rate" (BMR) units at a price that is affordable to a specified mix of low, moderate, and middle-income households either on-site or off-site, referred to as the On-Site Alternative or Off-Site Alternative, respectively.

Projects that include on-site units to qualify for a density bonus under the State Law may also be able to satisfy all or part of the Affordable Housing Fee requirement, by receiving a “credit” for the on-site units provided. This “credit” is calculated in accordance with Planning Code Section 415.5(g)(1)(D), as part of the Combination Alternative requirement. The Combination Alternative allows projects to satisfy the Inclusionary Housing requirement through a combination of payment of the fee and provision of on-site units. An example of how to apply the Combination Alternative to a Density Bonus project is provided below.⁷

Projects may only receive a density bonus for below market rate units provided at a single income level (very low, low, or moderate income); projects cannot combine the bonuses allowed for different below market rate income levels to receive a greater density bonus, unless the project maximizes the amount of on-site affordable housing at one income level and provides additional on-site affordable housing as described on page three (3) above, and in accordance with Government Code section 65915(v). For example, a project cannot combine the bonus allowed for providing 5% very-low income units (i.e. 20% bonus) and the bonus allowed for providing 10% low income units (i.e. 20% bonus), to receive a 40% bonus. However, as set forth below, a project may reduce the affordability of on-site units otherwise required by the Inclusionary Housing Ordinance.

If the base density of a site is between five and nine units, then the project is not subject to the Inclusionary Ordinance, and the sponsor may select the unit type and AMI of the required affordable units in accordance with the State Law. All on-site affordable units provided either to qualify for a density bonus under the State Law or the Inclusionary Ordinance shall be administered through the Mayor’s Office of Housing and Community Development and subject to the Inclusionary Housing Procedures Manual.

Projects that propose between 10-24 units are subject to the Inclusionary Affordable Housing Program but are subject to different rates and affordability levels than projects with 25 units or more. Projects with a base density of fewer than 24 units must comply with the small project rate and associated AMI level (55% AMI for rental and 80% AMI for ownership).

The Inclusionary Affordable Housing Program requires projects with 25 or more units that elect the On-Site Alternative to provide BMR units at three different income levels, or “tiers.” These tiers are set at different levels depending on the tenure of the proposed projects. Rental projects must provide units at 55% AMI, 80% AMI, and 110% AMI, and Ownership projects must provide units at 80% AMI, 105% AMI, and 130% AMI. Each tier is provided at a specific amount required by the Planning Code. For example, for a project application submitted in January 2024, the applicable on-site rate is 15%, comprised of 10% of the units at 80% AMI, 2.5% of units at 105% AMI, and 2.5% of units at 130% AMI. The price of a low-income ownership unit provided to satisfy the Inclusionary Program may not be reduced from 80% AMI to 50% AMI. In rental projects, the 55% AMI tier may be used to qualify for a density bonus at the very-low income tier (50% AMI).

A project may request to substitute low-income units for required moderate- or middle-income Inclusionary units as an incentive. If the number of on-site Inclusionary Units exceeds the number of affordable units required under State Density Bonus Law for the requested bonus, then the remaining units shall be evenly distributed between the moderate-income Inclusionary tier (105% AMI for ownership, 80% AMI for rental) and the middle-income Inclusionary tier (130% AMI for ownership and 110% AMI for rental). When calculating the tiers, remainders of 0.5 are rounded up unless rounding results in one more or one fewer affordable unit than required. A Density Bonus Project shall round the low-income tier (55% AMI for rental, 80% AMI for ownership) up to a whole unit from any remainder.

⁷ Projects seeking approval using the Central SOMA HSD must maximize the number of on-site affordable units in the base project.

Projects that qualify for a density bonus with rental Inclusionary Units may be restricted in the ability to convert from rental to ownership in the future, and changes in tenure would require approval from the Planning Commission.

If a project that has been approved by the City without a density bonus is modified to request a density bonus under the State Law, resulting in an increase of more than 20% additional gross floor area or units than what was approved, will be subject to the Inclusionary Rate in effect at the time of resubmittal. Pipeline Projects, as defined in Section 415A.2, may apply to modify their required AMI tiers administratively through an Inclusionary Rate Reduction request

Calculating the Inclusionary Housing Fee for Density Bonus Projects

To calculate the applicable Inclusionary Housing Fee for projects seeking a “credit” for on-site units provided to qualify for a density bonus, applicants must submit the following information:

- the number and type of on-site units to be provided, and the percentage of the total number of units in the proposed project the on site units represent;
- documentation that all on-site units comply with the affordability levels, unit size, unit mix, unit distribution and equivalency, and other requirements of Section 415.6 (as further specified in Zoning Administrator Bulletin No. 10), depending on the location, tenure, and number of total units in the project, and the date that the Project Application was accepted; and
- necessary AMI information to verify if/how the project qualifies for a State Density Bonus.

The remaining portion of the Fee requirement not satisfied by the credit for on-site units shall then be provided by payment of a pro-rated amount of the Affordable Housing Fee pursuant to Planning Code Section 415.5. The examples below illustrate how the Inclusionary requirement may be satisfied in 1) areas where density is regulated by a ratio of units to lot area, and 2) in areas where density is regulated by the permitted volume on the site (form-based density).

Rounding

For calculating the base and bonus density, the State Law requires any fractional unit to be rounded up to the next whole number. Planning Code Section 415 requires any fractional unit over 0.5 be rounded up to the next whole number. Fee calculations are rounded to the nearest cent. Ratios and percentages that are not whole numbers are rounded up to the nearest tenth. The rounded number or percentage should be carried through to the next step.

ADDITIONAL REQUIREMENTS:

State density bonus projects must comply with the replacement unit provisions of Government Code section 65915(c)(3). Projects may also need to comply with California Environmental Quality Act (Public Resources Code sections 21000 et seq) and the California Coastal Act (Public Resources Code Sections 30000 et seq.)

Director's Bulletin No. 6 will be updated periodically as the Department continues to issue interpretations related to the implementation of State Density Bonus Program in San Francisco, and to clarify existing policies as needed. The Department will apply any updates to the Bulletin to projects currently under review. Please check the Planning Department website at sfplanning.org for the most recent version of this Bulletin.

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RESOURCES

[Individually Requested State Density Bonus Informational and Supplemental Application Packet](#)
[Planning Code Section 206.6](#)
[Planning Code Section 415](#)
[Planning Department Plan Submittal Guidelines](#)



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