



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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DECEMBER 2018
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FEBRUARY 2019

References:
Government Code Section 65915
Planning Code Section 206.6

BACKGROUND:

The California State Density Bonus Law offers development incentives to projects that provide on-site affordable housing. The State Law offers three categories of benefits to incentivize on-site affordable housing:

1. A project may seek up to 35% additional density;
2. A project may receive up to three 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. A project may receive waivers from any local development standard if needed to construct on-site affordable housing within the project.

The amount of the density bonus and the number of incentives and concessions depends on the amount and level of affordability of the affordable units in the project.

In 2017, the City codified the State Density Bonus Law as the Individually Requested State Density Bonus Program (PC Section 206.6). This program incorporates additional requirements and standards for local implementation of the State Program.

HOW DOES SAN FRANCISCO IMPLEMENT THE STATE DENSITY BONUS PROGRAM?

Calculating a Density Bonus

Base Density

In order to determine how much of a density bonus State Law will allow, the density allowed by current controls (“base density”) must first be calculated. The “base density” is the maximum allowable gross residential 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 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 will be represented as the maximum residential gross floor area.

In some cases, an entitlement is required to increase or modify the allowable building envelope, which would generally result in additional density. However, in some Zoning Districts, a project may require an entitlement based on the location or size of a lot. For example, projects in Neighborhood Commercial Districts (NC) often require a Conditional Use Authorization for projects on lots greater than 10,000 square feet. In these cases, a project may still seek approval under the State Density Program as long as the base project is Code compliant in regard to density and building envelope. However, a

project may not assume the density that would be conditionally permitted by the Planning Code as the base density. For example, projects in the Residential Transit Oriented (RTO) District permit a dwelling unit density of one unit per 600 square feet of lot area and require a Conditional Use Authorization to exceed one unit per 600 feet of lot area. The base density calculation for a project in the RTO would assume the permitted density of one unit per 600 feet of lot area, and could not assume a greater base density. The Department has found that the base density does not need to account for compliance with wind or shadow requirements.

How does the Inclusionary Affordable Housing Ordinance overlap with the State Density Bonus Program?

San Francisco's Inclusionary Housing Program applies to new residential projects of 10 or more units. These projects must 1) pay an Affordable Housing Fee, 2) provide a percentage of the units within the project as "below market rate" (BMR) units at a price that is affordable to low, moderate or middle income households, or 3) provide a percentage of the units "off-site" at another location in the City as "below market rate" (BMR) units at a price that is affordable to low or middle income households. Projects may use required on-site BMR units to qualify for a density bonus under the State Density Bonus Program.

The project must comply with the Inclusionary Affordable Housing Requirement set forth in Planning Code Section 415, but the project may only seek a bonus at a single income level. State Law does not allow for a mix of affordability levels to achieve a greater density bonus. For example, if the Inclusionary requirement requires 10 units at 80% Average Median Income (AMI), 5 units at 105% AMI, and 5 units at 130% AMI, only the 10 units at 80% AMI can count as on-site affordable units under the State Density Bonus Law.

Planning Code Section 415 requires projects that provide over 25 units to provide BMR units at three different income levels or "tiers." These income levels 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. Ownership projects must provide units at 80% AMI, 105% AMI, and 130% AMI. When using the required on-site Inclusionary Units to qualify for a density bonus, the tiers may not be lowered or combined in any way, except that the 55% AMI tier may be lowered to 50% AMI. In practice, rental projects may qualify for a maximum bonus with the minimum number of on-site BMR units required by Section 415. Ownership units will not qualify for the maximum 35% bonus using only the required on-site BMR units.

Additionally, Section 415 also requires that any project that qualifies for and receives additional units or floor area under the State Density Bonus Program pay an additional Inclusionary Affordable Housing Fee on the additional floor area received. An example of how this fee is calculated is provided under the Review Process section of this Bulletin. Note that projects that submitted a completed Environmental Evaluation Application before January 12, 2016 are exempt from this requirement, but that any project that submits an Individually Requested State Density Bonus Supplemental Application after this time will be subject to the additional fee requirement.

Bonus Project

The amount of density bonus that a project may seek is set forth in the State Law. The maximum density bonus is an additional 35% above the base density. The table below summarizes the amount of density bonus allowed based on the level of affordability. In areas where density is controlled as a ratio of units to lot area, the density bonus will be calculated as 135% of the base density represented as number of units allowed on the site. Any resulting remainder is rounded up to the next whole number. In areas with form-based density, the density bonus will be calculated as 135% of the residential gross floor area permitted in the “base” project.

Restricted Affordable Units Category	Minimum Percentage of Restricted Units	Percent of Density Bonus Granted	Additional Bonus for Each 1% Increase in Restricted Units	Percentage of Restricted Units Required for Max. Bonus
Very Low Income (up to 50% AMI)	5%	20%	2.5%	11%
Low Income (up to 80% AMI)	10%	20%	1.5%	20%
Moderate Income (up to 120% AMI)	10%	5%	1%	40%
Senior Housing	100%	50%	-	-
Transitional Aged Youth	10%	20%	-	-

Requests for Waivers, Incentives, and Concessions

Incentives and Concessions

The State Law offers project the right to receive one, two, or three incentives or concessions “that are required to provide for affordable housing costs.”¹ A concession or incentive can be a reduction in site development standards, or a modification of zoning code requirements, approval of mixed-use zoning, or other regulatory concessions or incentives that “result in identifiable, financially sufficient, and actual cost reductions.”² The phrase “incentives and concessions” references a single request for exceptions, so for the purposes of this document, “incentives and concessions” are referenced as “incentives” only. An applicant may not seek an incentive from a required entitlement process or any required development impact fees. The number of incentives the project may receive depends on the number of affordable units provided and the level of affordability, as described in the table below.

Target Group	Restricted Affordable Units		
Very Low Income	5%	10%	15%
Low Income	10%	20%	30%
Moderate Income	10%	20%	30%
Maximum Number of Incentives	1	2	3

The Project Sponsor must provide a written statement describing the requested incentives and may request a meeting with Planning staff to discuss the request. Requested incentives must be approved unless the City finds that they 1) will not result in identifiable and actual cost reductions; 2) will have specific adverse impacts on public health or safety of the physical environment, or 3) will have specific adverse impacts on property that is listed on the California Register of Historic Resources. The Project Sponsor must include the requested incentives in the [Individually Requested State Density Bonus Supplemental Application](#) when they submit a base density study and density bonus project. The Department may request additional documentation and verification regarding cost reductions and/or impacts on public health, safety, or historic property. Verification may include a site specific or general analysis of the costs savings to a project available through the requested incentive.

1 CA Govt. Code Section 65915(k)
2 CA Govt. Code Section 65915(k)

A common incentive is a reduced parking requirement, which is known to lower project costs by an average of \$60,000 to \$150,000 dollars per parking space (depending on construction type). In some cases, where the financial benefit of a requested incentive is less clear, the Project Sponsor may be required to submit financial information or a pro-forma statement to the Department as evidence that the requested incentive results in an “identifiable, financially sufficient, and actual cost reduction.”

The financial analysis must address two scenarios: 1) the Bonus Project with the density bonus units and the affordable units, and 2) the Bonus Project incorporating the aforementioned plus the requested incentives. The information submitted must show the actual cost reduction or financial benefit achieved through the incentive. The Department may require an evaluation of the financial analysis by a qualified third-party consultant.

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 many other requirements that can preclude the ability to construct the project with the bonus density and the requested incentives.

In accordance with the State Density Bonus Law, the City will waive any Planning Code requirements that will preclude the construction of the project with the bonus density within the permitted building envelope. A waiver will be granted unless the City finds that it would have a “specific, adverse impact upon health, safety, or the physical environment,” or it would have an “adverse impact on any property listed in the California Register of Historical Resources.”

To determine whether waivers are necessary to construct the density bonus project, Project Sponsors must submit a base density study and a bonus project. The Project Sponsor must inform the City which development standards need to be waived or reduced to allow for construction of the increased density. Project Sponsors may also request waivers from other development standards such as open space, rear yard, bulk, parking, unit mix requirements, or any other Planning Code requirement that constrains development capacity. The Department may request additional documentation to demonstrate that a requested waiver is necessary to accommodate the extra density conferred by the Bonus Program.

A common example of a waiver is height. If a 100-unit project is receiving a 35-unit density bonus, height requirements may need to be waived to accommodate the additional 35 units.

Review Process

Eligibility

A project must provide at least five net new units in the base portion of the project to qualify for the State Density Bonus Program. Please see Section 206.6(b) for other eligibility requirements.

Submittal Requirements

Project Sponsors must complete the [Individually Request State Density Bonus Supplemental Application](#). Project Sponsors will be required to provide a calculation of the base density founded on the existing Planning Code requirements, and a calculation of the allowable density bonus.

In Zoning Districts where density is regulated by volume, Project Sponsors must demonstrate that the base density can be achieved as a Code-conforming project that requires no waivers, modification, or variances from zoning requirements. 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 each floor, will not be required for a base density study. The sponsor must submit a code-compliant building massing, building section, and floor plans for the ground floor and any floors below grade that contain residential uses. This is an academic exercise; for example, Planning Code requirements regarding rear yard must be met; however, the Department would not require that the base density study be designed to meet all urban design guidelines. The purpose of the base density study is to determine the maximum allowable residential density. Therefore, performance-based standards, such as wind controls, will not be evaluated as part of the base project.

In addition to the base density study, the Project Sponsor must submit a density bonus project. The bonus project must be compliant with the [Department's Plan Submittal Guidelines](#) and have a stable project description before the application will be accepted.

The bonus project submittal must include a description of the requested waivers and incentives, and all relevant supporting documentation. Graphic representations to support the requests for waivers and incentives are highly encouraged. Such graphic representations should include a step-by-step illustration of how the massing of the proposed project shifts as the density bonus, waivers and incentives are incorporated into the project. The first step should illustrate a code-compliant base project massing and should include the total residential gross floor area³ included in the massing. Each subsequent step should demonstrate how the proposed massing is changing and should include the corresponding increase in residential gross square feet, as well as any waivers, incentives, or concessions that are required to achieve that massing. The final step should illustrate the final massing, describe the final requested waivers, incentives and concessions, and the final residential gross floor area. A sample massing diagram is included as Exhibit A of this document.

If the Project Sponsor is seeking to qualify for the density bonus using on-site Inclusionary Affordable Housing units, then the applicable Inclusionary Rate will be determined by the location of the project, project tenure, number of units in the bonus project, and the date that the Project Application was deemed complete. The applicant must submit a description of the percentage of the on-site units and the various income levels required by Section 415, and how those units will allow the project to qualify for a Density Bonus under the State Program. The Inclusionary On-Site requirement will be applied to the total number of units within the area or the number of units represented by the base density study. The base floor area must equate to a whole number of units (not fractional units). In addition, the required Inclusionary Affordable Housing Fee will be applied to the applicable percentage of the total gross floor area of the project obtained through the density bonus.

For example, a project proposes to construct a project in the C-3-G District, which is a District with form-based zoning. The base density study would result in an allowable density of 100,000 square feet on the project site. The project is a rental project which would qualify for a maximum density bonus of 35%, resulting in a bonus project of 135,000 square feet. The bonus project contains 200 dwelling units. The required inclusionary fee would be calculated on the 35,000 square feet of floor area between the base density study and the proposed bonus project. Then the on-site Inclusionary rate would be applied to any units that were located in the remainder of the project. This remainder would be calculated by finding the ratio of the base density study to the bonus project. In this case, 100,000/135,000 is equal to 74%. 74% of the units in the project is equal to 148 units, so the on-site Inclusionary rate would be applied to 148 units only. Finally, the Inclusionary Affordable Housing Fee would be applied to the 35,000 square feet of bonus area at the rental rate of 30% (35,000 square feet x 30% x Affordable Housing Fee rate per square foot = additional fee fee). The rate of ownership projects is 33%, and the Affordable Housing Fee rate per square foot is provided in the Citywide Development Impact Fee Register, as updated January 1 of each year.

Note that the requirements of the Inclusionary Housing Ordinance, specifically the required income tiers, may not be modified or combined, except that a project sponsor may provide units at 50% AMI instead of at 55% AMI for rental projects. Projects may not reduce the affordability levels required in Planning Code Section 415.6, nor may they combine two or three income tiers into one.

Process

Projects that are subject to specific entitlements without the density bonus must still secure that specific entitlement with the density bonus. For example, a project in Eastern Neighborhoods that requires a Large Project Authorization approval by the Planning Commission because the base project is over 25,000 square feet will continue to require approval by the Planning Commission, even though it is a State Density Bonus project. For projects that do not require a Planning Commission entitlement, the Planning Commission will consider a motion to 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. An applicant may not seek an incentive from a required entitlement process or any required development impact fees.

3 "Residential Gross Floor Area" 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.

Planning Code Section 206.6 requires that the Project Sponsor 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. 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 draft regulatory agreement. Applicants must submit a Supplemental Application for the Individually Requested State Density Bonus along with their Preliminary Project Assessment (PPA) Application or Project Application. Note that projects that do not submit a complete base density study and bonus project will be considered incomplete.

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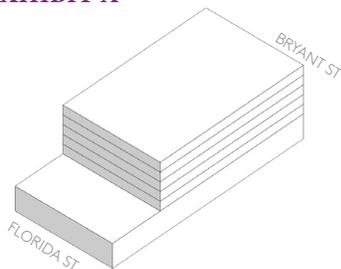
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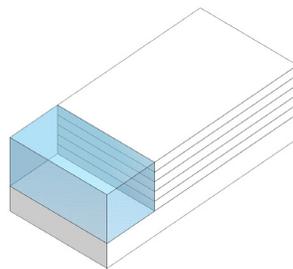
RESOURCES

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

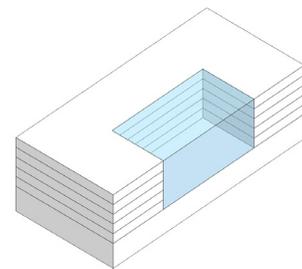
EXHIBIT A



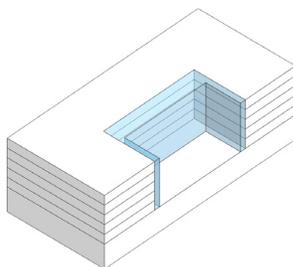
BASELINE: Full ground floor with 5 stories of housing above;
resid. gross sq. ft. = approx. 87,500



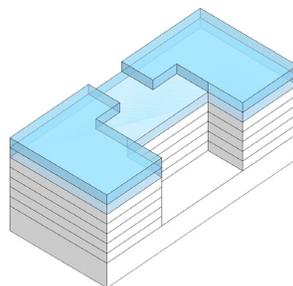
STEP ONE: Size of code-compliant rear yard = 25% of lot depth located along one of the street frontages



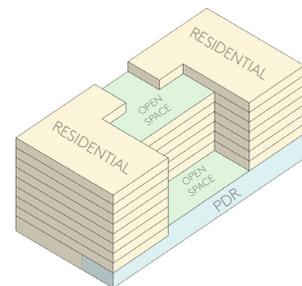
STEP TWO: Relocate rear yard to center of massing as courtyard



STEP THREE: Reduce rear yard and unit exposure to allow room for double-loaded corridors
+ approximately 10,750 residential SF



STEP FOUR: ADD one full story of units and one partial story of units with additional roof-top open space
+ approximately 19,800 residential SF



FINAL MASSING: full ground floor with 8-9 stories of housing above
resid. gross sq. ft. = approx. 118,050



SAN FRANCISCO
PLANNING
DEPARTMENT

**FOR MORE INFORMATION:
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*Planning staff are available by phone and at the PIC counter.
No appointment is necessary.*