

A GUIDE TO CALIFORNIA DENSITY BONUS LAW

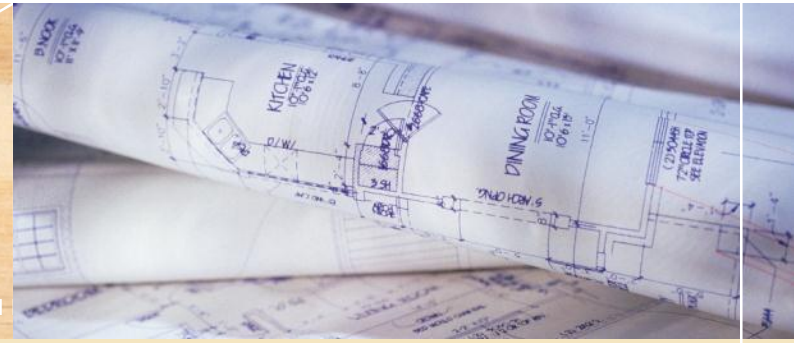
(GOVT CODE §65915 – 65918)

Housing & Neighborhood Services



Revised: May 2022





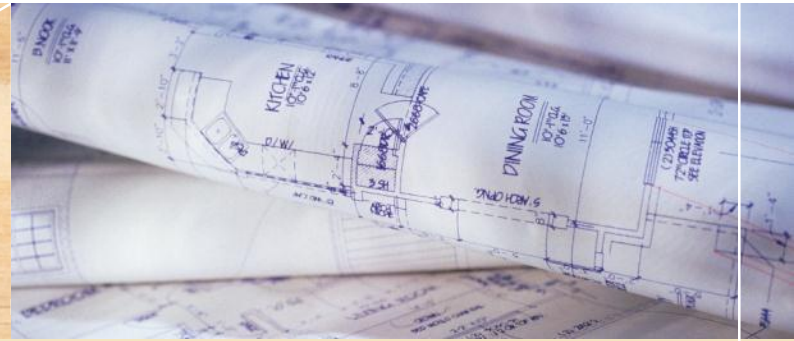
GOVERNMENT CODE SECTION 65915 – 65918

You've Got to Give. . .

- Affordable Housing
- Senior Housing
- Land for Affordable Housing
- Condo Conversions with Affordable Housing
- Child Care Facilities

To Get. . .

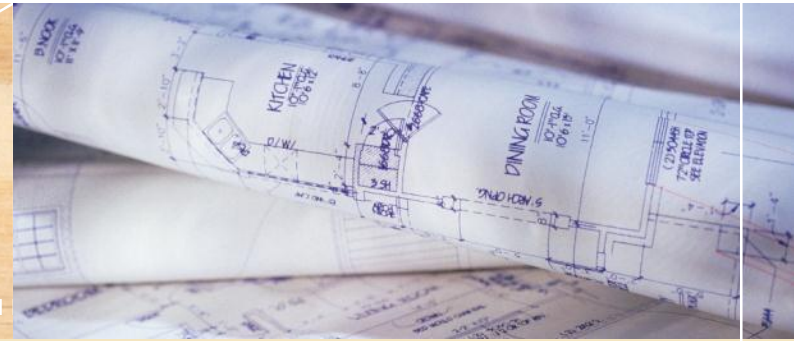
- Bonus Units
- Reduced Parking Standards
- Incentives/Concessions
- Waivers
- Commercial Density Bonus



QUALIFYING FOR DENSITY BONUSES

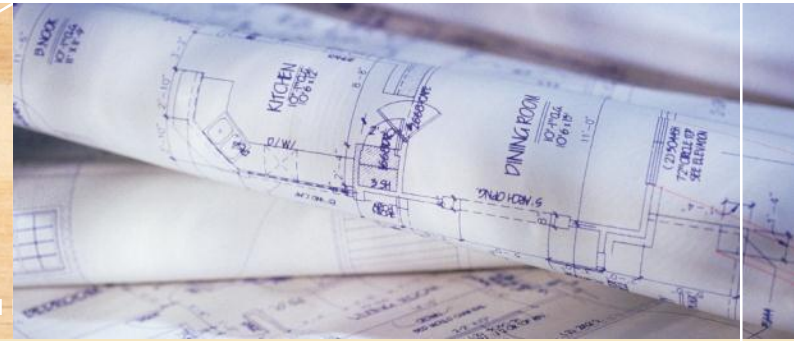
(§65915(B)(1))

% of DUs to be Restricted	Targeted Populations
5%	Very Low-Income households (incomes 50% and less of median)
10%	Lower-Income households (incomes 80% or less of median)
10%	Moderate-Income households (120% of median income) but only if project is a for sale development
10%	Transitional Foster Youth, Disabled Vets or Homeless Persons and restricted to Very-Low-Income rents
20%	Low income college students in housing dedicated for full-time students at accredited colleges.
100%	Lower-Income households, but may include a max of 20% for Moderate Income



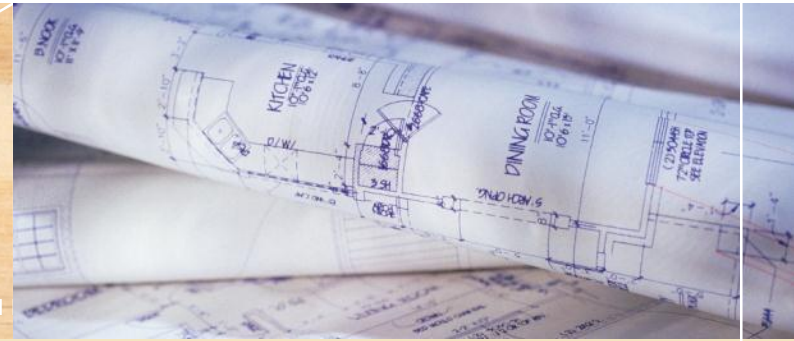
ELIGIBILITY: STUDENT HOUSING (§65915(B)(1))

- 20% of the units affordable to Lower-Income Students
 - Income and assets does not exceed level for Cal Grant A or B
 - Rent at 30% x 65% of AMI for single occupancy unit
 - Priority for those experiencing homelessness
- Student Housing Development
 - Exclusively used for undergraduate, graduate, or professional students enrolled full time at an institution of higher education accredited by the Western Association of Schools and Colleges or the Accrediting Commission for Community and Junior Colleges



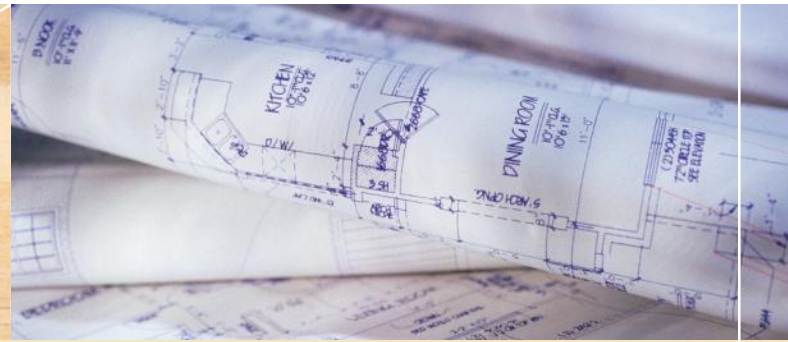
AFFORDABLE RENTS (§665915 (C) (1)-(2))

- **Lower Income Rental units, including student housing**
 - Section 50053 of the Health and Safety (H&S) Code (e.g. 30% or 60% AMI)
- **100% Lower Income Rental Units**
 - 20% at H&S Code Standards
 - Remaining units at Low Income Housing Tax Credit (LIHTC) rents



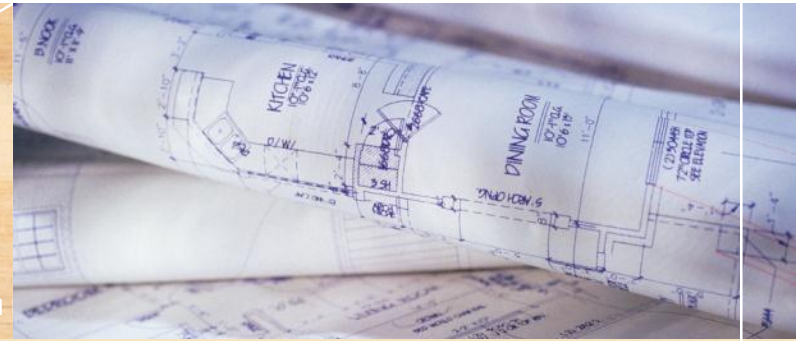
CONTINUED AFFORDABILITY (§665915 (C) (1)-(2))

- **Rental units, including student housing**
 - Affordable for **55 years** – unless subsidy program requires longer period
- **Ownership units**
 - Affordable to initial occupants
 - Enforce equity share agreement at sale
 - Alternative: developers may sell affordable units to nonprofit housing corporations
 - They sell to a lower income buyer subject to affordability requirements with a term of at least 45 years, an equity sharing agreement, and a repurchase option in favor of the nonprofit corporation



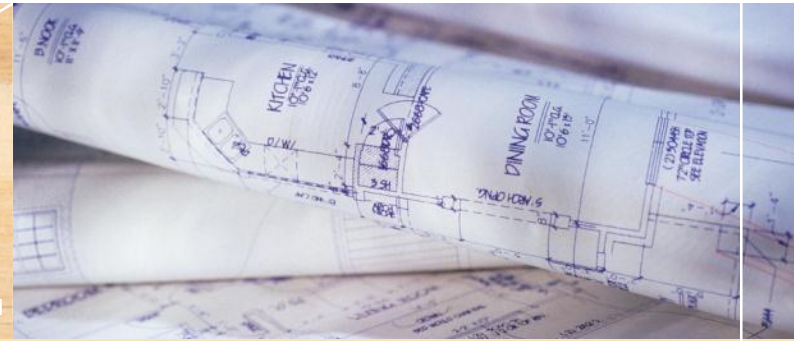
DENSITY BONUS & INCENTIVES (§ 65915(F) & (D)(2))

Target Units	% of Target Unit	Density Bonus %	% of Target Unit	Density Bonus %	% of Target Unit	Density Bonus % (Max)
Very-low income	5%	20%	10%	32.5%	15%	50%
Low-income	10%	20%	17%	30.5%	24%	50%
Moderate-income (ownership units only)	10%	5%	20%	15%	30%	25%
Maximum Incentive(s)/ Concession(s)	1		2		3	
Max bonus up to 50%				<i>(AB 2345; 09/28/2020)</i>		<i>(AB 2345; 09/28/2020)</i>



DENSITY BONUS & INCENTIVES (§ 65915(F) & (D)(2))

Target Units	% of Target Unit	Density Bonus %	% of Target Unit	Density Bonus %
Very Low/Low-income <i>(AB 1763; 10/09/2019)</i>	100%	80%		
<i>Moderate-income</i>	20%			
Maximum Incentive(s)/ Concession(s)	4		0	
½ Mile of major transit stop	Increase in height up to 3 additional stories or 33' No Density Limit			
Senior housing (no Affordable Dus)			100%	20%
Transitional Housing for Youth, Homeless, Disabled Veterans			10%	20%
Student Housing			20%	35%



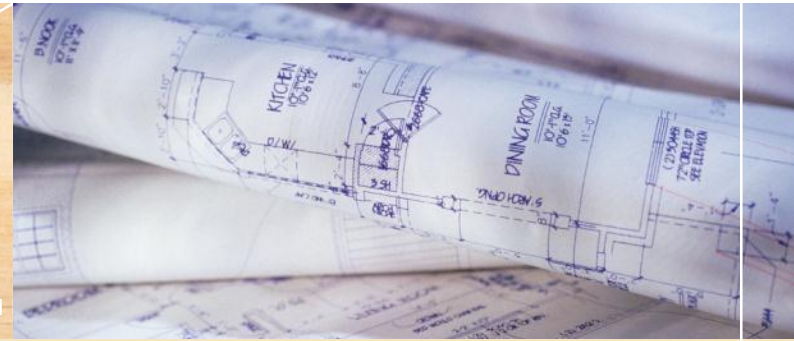
DENIAL OF INCENTIVES (§ 65915(D)(1))

- Do not meet the threshold requirements set in the statute – e.g., they do not result in “identifiable, and actual cost reductions to provide for affordable housing”
 - Presumed reduction. City must demonstrate that requested incentives and concessions will not result in cost reductions for the project. No proforma/documents required for financial feasibility *Schreiber v. City of Los Angeles*, 69 Cal. App. 5th (2021)

OR

- 1 of 3 specified findings:
 - Not required for affordability
 - Adverse impact on health/safety or historic resources with no feasible mitigation
 - Contrary to federal or state law

Cities bear burden of proof

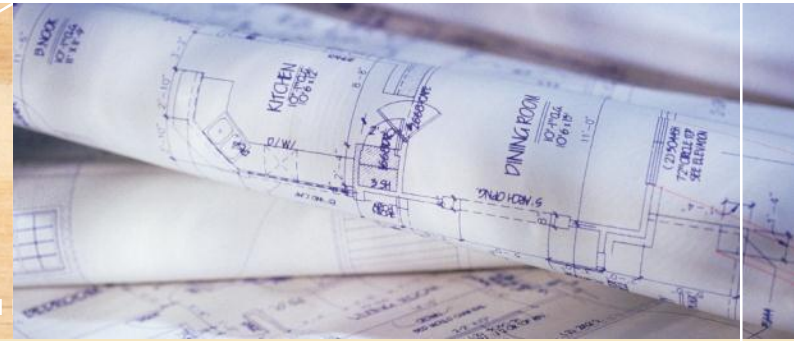


WAIVERS & MODIFICATIONS (§ 65915(E))

- Entitled to waivers of development standards that physically preclude the construction of the project that qualifies for a density bonus or incentive
- Developer may request unlimited waivers

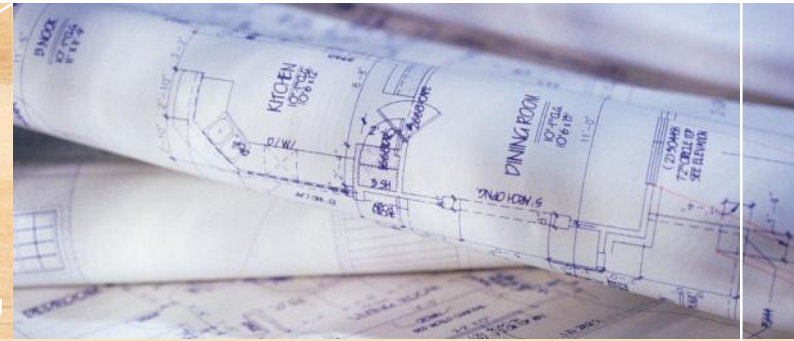
DENIAL

- Only on the adverse impact on health and safety or historic resources with no feasible mitigation *Bankers Hill 150 v. City of San Diego Cal.App.5th (Jan. 7, 2022)*



DENSITY BONUS PARKING STANDARDS (§65915(P))

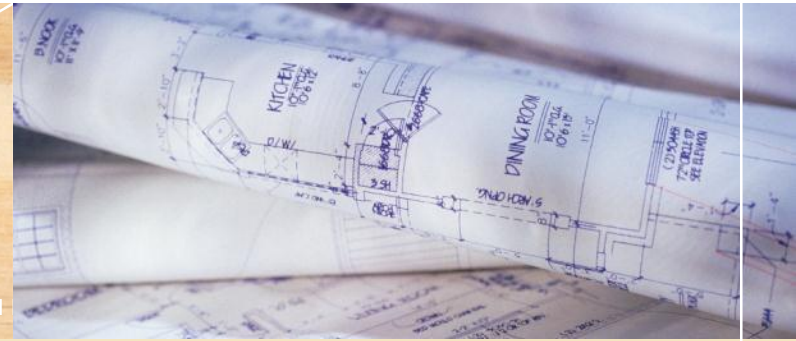
- Requires use of parking standards for projects that qualify for a density bonus
 - Even when not requesting a density bonus, incentives or waivers
- Can request even lower parking ratios as a concession or waiver
- City discretion is extremely limited



DENSITY BONUS PARKING STANDARDS - BASIC

Description	Onsite Parking Requirements
	<u>Govt Code 65915(p)(1)</u>
0-1 bedroom unit	1 parking space
2-3 bedroom units	1.5 parking spaces
4-more bedroom unit	2.5 parking spaces

- Ratios apply to market rate units as well as density bonus units
- Inclusive of parking for persons with disabilities and guests



PARKING STANDARDS – TRANSIT ORIENTED

Government Code 65915(p)(2)-(4)

Rental or ownership housing development with (Government Code 65915(p)(2)):

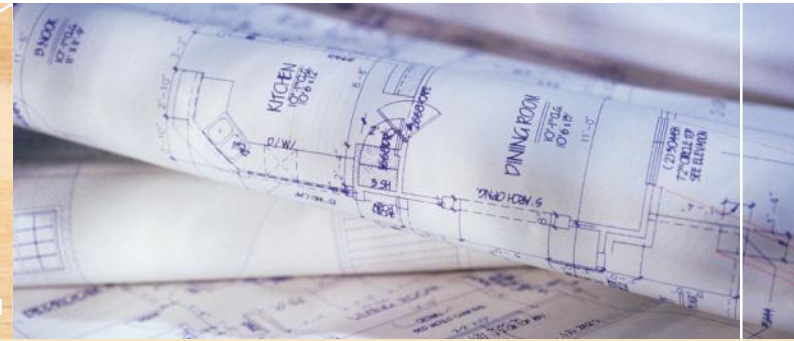
1. At least 11% very low income or 20% low income units; and
2. Within one-half mile of a major transit stop; and
3. Unobstructed access to the major transit stop.

**0.5 space
per unit**

Rental housing development with (Government Code 65915(p)(3)):

1. All units affordable to lower income households except manager's unit(s); and
2. Within one-half mile of a major transit stop; and
3. Unobstructed access to the major transit stop.

**No parking
requirement**



PARKING STANDARDS – TRANSIT ORIENTED

Government Code 65915(p)(2)-(4)

Rental housing development with ([Government Code 65915\(p\)\(3\) and \(4\)](#)):

1. All units affordable to lower income households except manager's unit(s); and
2. Supportive housing development; OR
3. A senior citizen or special needs housing development; and either
 - a. Has paratransit service; or
 - b. Is within one-half mile of fixed bus route service that operates 8 times per day, with unobstructed access to that service.

No parking requirement

Ownership housing development with ([Government Code 65915\(p\)\(2\)](#)):

1. At least 40% moderate-income units; and
2. Within one-half mile of a major transit stop; and
3. Unobstructed access to the major transit stop.

0.5 space per bedroom



Area Median Income Limits 2022

Income Category	Median Income Household of Four
Very Low Income <i>(max at 50% AMI)</i>	\$ 65,050/annual \$ 5,421/month
Low Income <i>(max at 80% AMI)</i>	\$ 104,100/annual \$ 8,675/month
Moderate Income <i>(120% AMI)</i>	\$ 128,300/annual \$10,692/month



Rent Limits 2022

 (H&S Code § [50053](#) and [50052.5](#))

Target Population Area Median Income	Maximum Restricted Rent Level			
	Studio	1 BR Unit	2 BR Unit	3 BR Unit
Very Low (50% AMI)	\$935	\$1,069	\$1,203	\$1,336
Low (60% AMI)	\$1,122	\$1,283	\$1,443	\$1,604
Moderate ¹ (110% AMI)	\$2,401	\$2,744	\$3,087	\$3,430

¹ Maximum mortgage payment for Moderate Income



FOR MORE INFORMATION & TO CONTACT US

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