A GUIDE TO CALIFORNIA DENSITY BONUS LAW

REV 10/2020

DEVELOPMENT SERVICES DEPARTMENT

CITY OF CHULA VISTA | HOUSING DIVISION

(619) 691-5047 | FAX (619) 585-5698
www.chulavistaca.gov/housing

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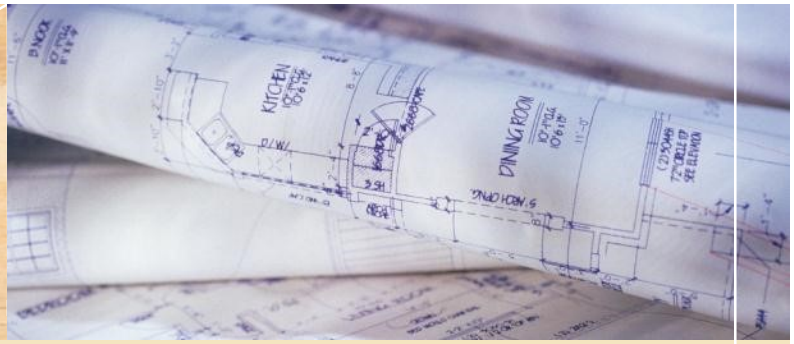
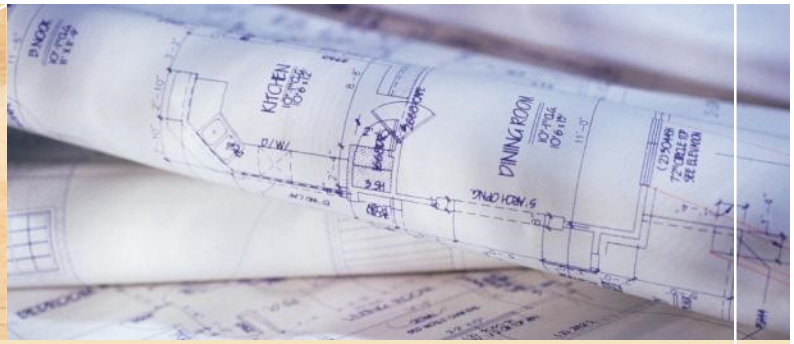


PROJECTS ELIGIBLE FOR DENSITY BONUSES

Government Code Section 65915(b)(1)

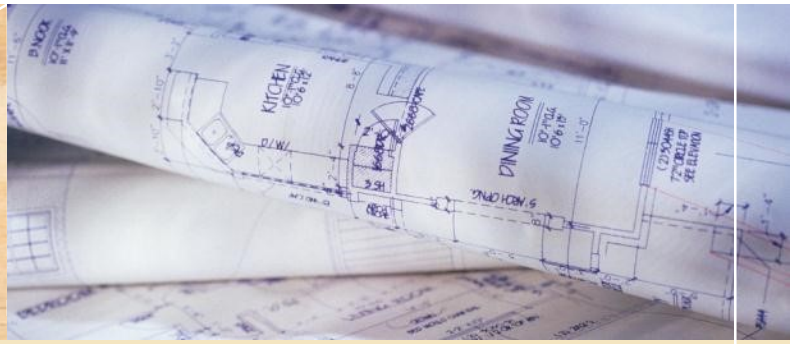
% of DUs to be Restricted	Targeted Populations
5%	**Very Low-Income** households (incomes 50% and less of median)
10%	**Lower-Income** households (incomes 80% or less of median)
10%	**Moderate-Income** households (120% of median income) but only if project is **common interest for sale** development
10%	**Transitional Foster Youth, Disabled Vets or Homeless Persons** and restricted to **Very-Low-Income** rents
100%	***Lower-Income*** *households, but may include a max of 20% for Moderate Income* *(AB 1763; 10/09/2019)*



ELIGIBLITY: SENIOR HOUSING

Government Code Section 65915(b)(1)(C)

- Senior Housing Development (as defined in CC Section 51.3 and 51.12) or mobile home park that limits residency to seniors
  - At least 35 units
  - No requirement for affordable rents or limits to income



ELIGIBLITY: STUDENT HOUSING

- 20% of the units affordable to Lower-Income Students
  - Income and assets does not exceed level for Cal Grant A or B
  - Rent at 35% 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

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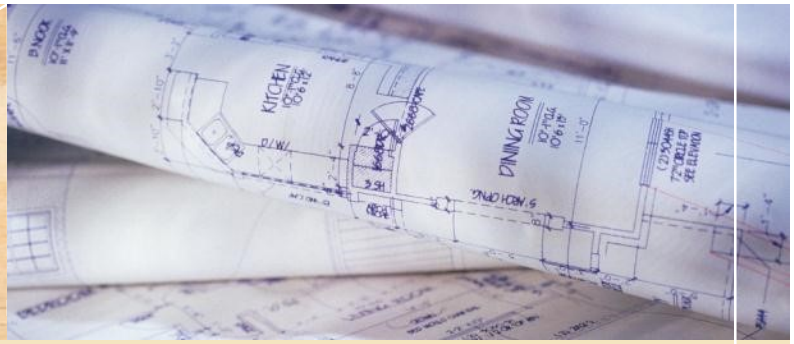


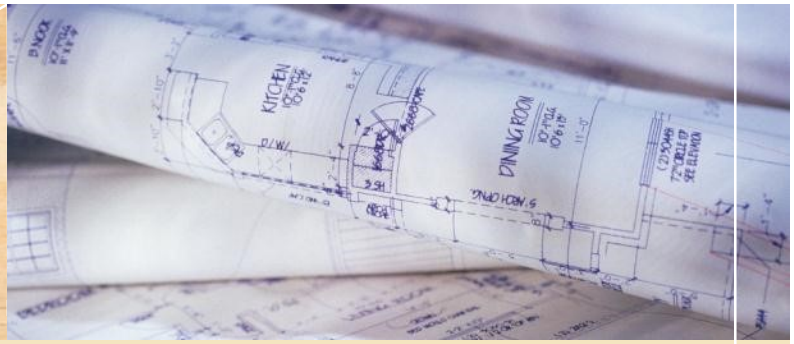
NOT ELIGIBLE IF….

- Existing rental housing units
- Vacant/demolished housing units within the last five years

THAT IS/HAS….

- Recorded Covenant, ordinance or law restricting rents for very low and low income tenants
- Subject to rent or price control
- Occupied by very low or low income tenants

UNLESS THE UNITS ARE REPLACED



REPLACEMENT REQUIREMENTS

- Replace the units AND
  - Provide target units per Govt Code Section 65915 (b); or
- New development is 100% affordable for very low or low-income tenants
- Replace = Like for Like
  - Same number of units, bedrooms and affordability level
  - Affordability presumed at HUD's CHAS database

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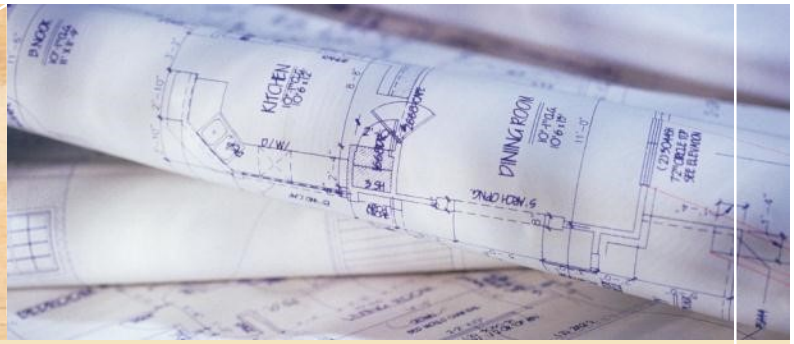

AFFORDABLE RENTS

- **Lower Income Rental units, including student housing**
  - Section 50053 of the Health and Safety Code
- **100% Lower Income Rental Units**
  - 20% at H&S Code Standards
  - Remaining units at LIHTC rents

(AB 1763; 10/09/2019)

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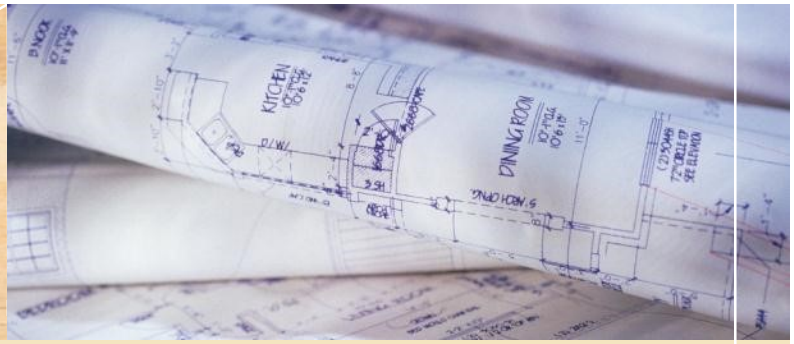

CONTINUED AFFORDABILITY

Government Code Section 65915(c)(1) & (2)

- **Rental units**
  - Affordable for 55 years – unless subsidy program requires longer period
- **Ownership units**
  - only affordable to initial occupants
  - Enforce equity share agreement at sale unless the equity sharing agreement conflicts with another public funding source requirement

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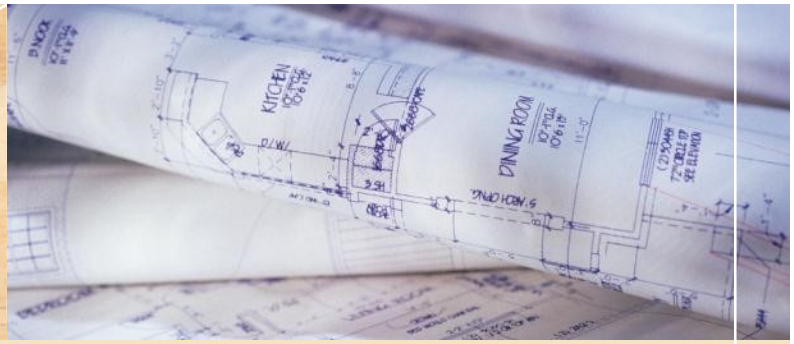

4 COMPONENTS OF DENSITY BONUS LAW

at the request of the applicant

Density Bonus

20% Density Increase if…

5% very low, 10% low or 100% senior

Can request less than or no density increase

Maximum of *50%* Density Increase

> 50% as an incentive

Incentives

1 to 4 to reduce the costs of development

Ex: height, setback, open-space requirement, etc.

Denial limited to:

Not required for affordability, Adverse impact that cannot be mitigated OR Contrary to Federal/State Law

Waivers

Unlimited if necessary to accommodate density & incentives

Examples: height, setback, open-space requirement, etc.

Denial limited to adverse impact that cannot be mitigated

Parking

Zero to one bedroom: 1 onsite parking space.

Two to three bedrooms: *1.5* onsite parking spaces.

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

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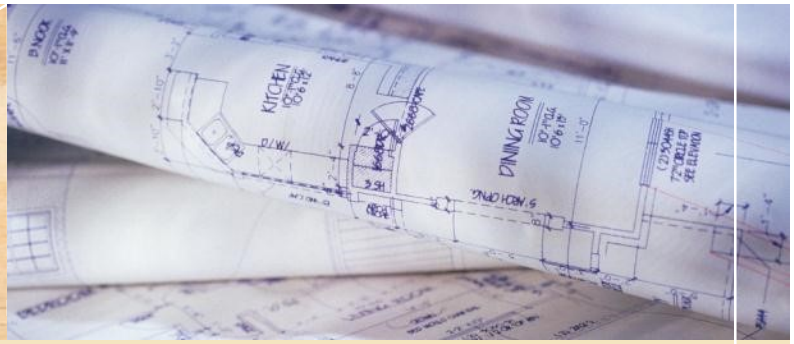

DENSITY BONUS & INCENTIVES

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	
			10%	20%		
Max bonus from 35% up to 50%			*(AB 2345; 09/28/2020)*		*(AB 2345; 09/28/2020)*	

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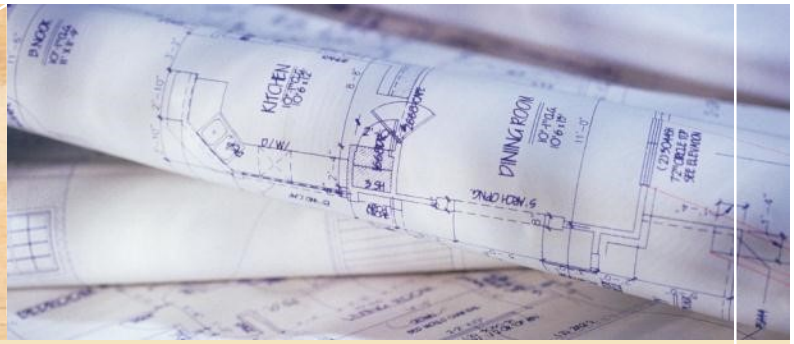
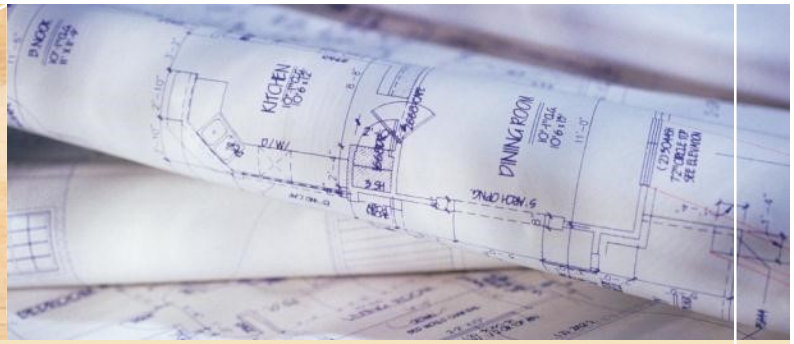


DENSITY BONUS & INCENTIVES

Target Units	% of Target Unit	Density Bonus %	% of Target Unit	Density Bonus %
Very-low income				
Low-income *(AB 1763; 10/09/2019)*	100%	80%		
Moderate-income	*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%



INCENTIVES & CONCESSIONS

Government Code Section 65915(k)

- Reduction in site development standards or modifications of zoning/architectural design requirements that result in “identifiable and actual cost reductions to provide for affordable housing”
- Mixed-use zoning that reduces the cost of the housing if the non-residential uses are compatible with housing and other area development
- Other regulatory incentives or concessions that result in “identifiable and actual cost reductions to provide for affordable housing”
- May request without request for density bonus

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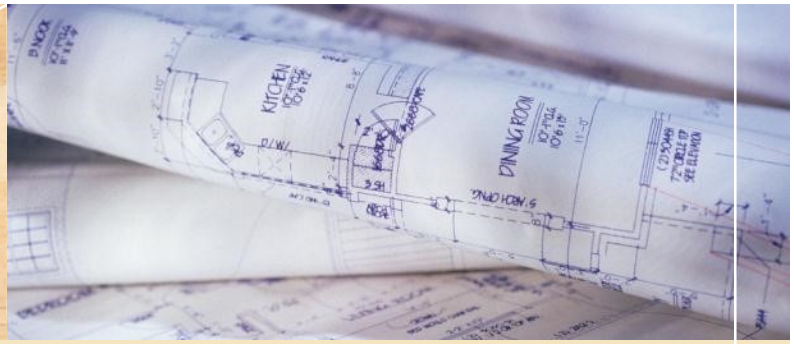


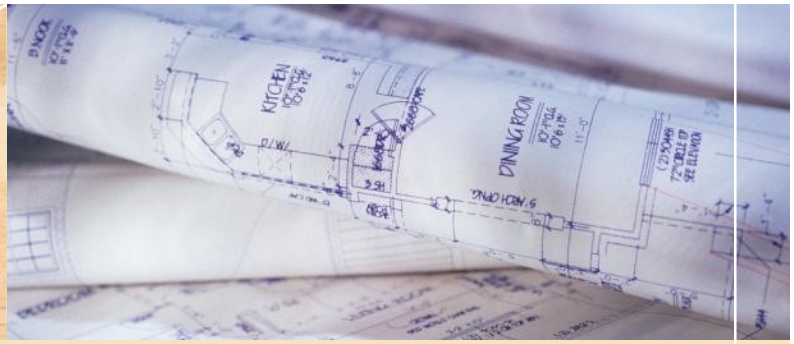
DENIAL OF INCENTIVES

Government Code 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"

OR

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



WAIVERS & MODIFICATIONS

Government Code 65915(e)

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

DENIAL

- Adverse impact on health and safety or the physical environment or historic resources with no feasible mitigation

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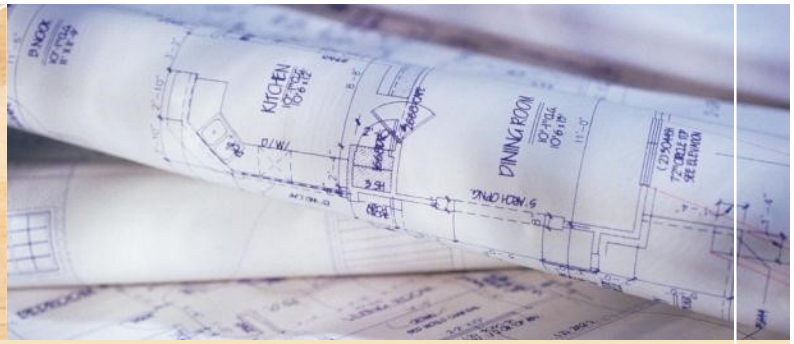

DENSITY BONUS PARKING STANDARDS

Government Code 65915(p)

- Requires use of parking standards for projects that qualify for a density bonus even if developer does not request density bonus, incentives or waivers
- Developer can request even lower parking ratios as a concession or waiver under density bonus law
- City discretion is extremely limited

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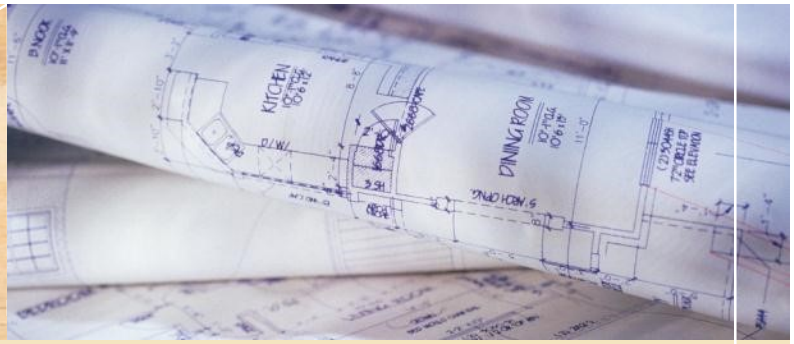

DENSITY BONUS PARKING STANDARDS - BASIC

- Applicable if project qualifies for a Density Bonus (senior or affordable housing)

Description	Onsite Parking Requirements	
	Govt Code 65915(p)(1)	CVMC 19.62.050 (13)
0-1 bedroom unit	1 parking space	1.5 parking space
2-3 bedroom units	*1.5 parking spaces*	2 parking spaces
4-more bedroom unit	2.5 parking spaces	2 parking spaces

- Ratios apply to market rate units as well as density bonus units
- *No vehicular parking standards required for transit oriented affordable housing*

((AB 1763; 10/09/2019 and AB 2345; 09/28/2020)

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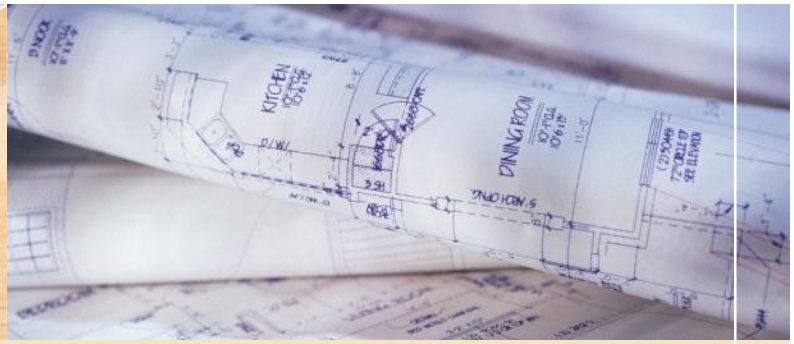
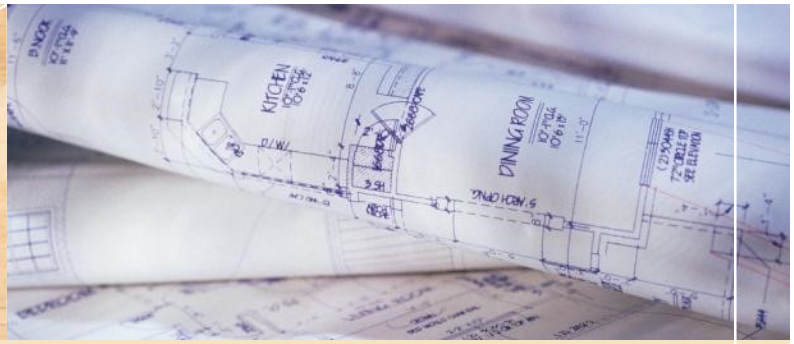


DENSITY BONUS PARKING STANDARDS – TRANSIT ORIENTED *Government Code 65915(p)(2)*

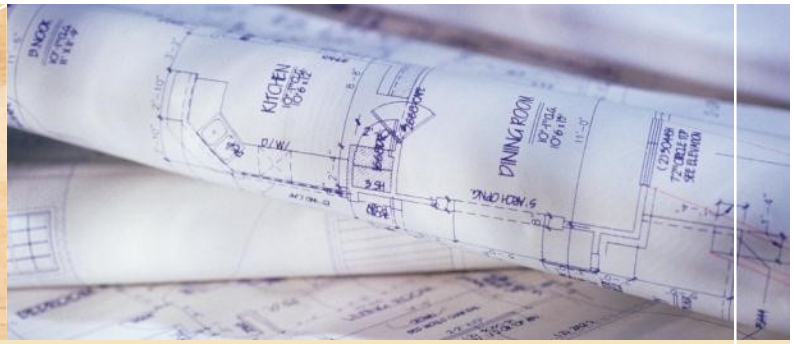
- Rental or ownership housing development with:
  - ❑ At least 11% very-low income or 20% low income units; **and**
  - ❑ Within one-half mile of a major transit stop; **and**
  - ❑ Unobstructed access to the major transit stop *("natural or constructed impediments" but not residential structures, shopping centers, parking lots, or rails for transit per AB 2345; 09/28/2020)*
- 0.5 parking space per unit *(inclusive of parking for persons with disabilities and guests)*



DENSITY BONUS PARKING STANDARDS – TRANSIT ORIENTED

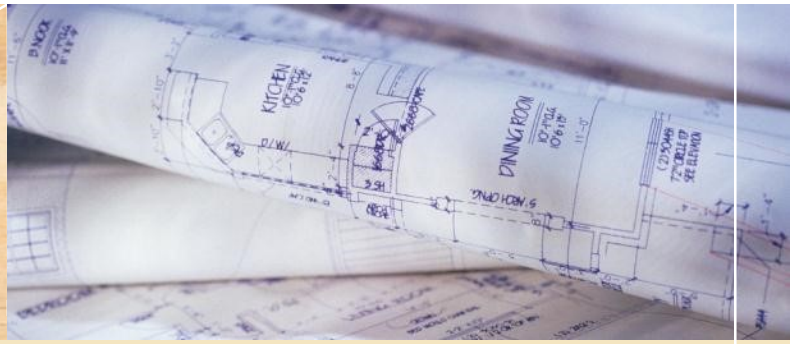
- Rental housing development with:
  - ❑ All units affordable to lower income except manager's unit; **and**
  - ❑ Within one-half mile of a major transit stop; **and**
  - ❑ Unobstructed access to the major transit stop

NO vehicular parking requirement *(AB 1763; 10/09/2019)*



DENSITY BONUS PARKING STANDARDS – TRANSIT ORIENTED

- Rental **senior citizen** housing development with:
  - ❑ All units affordable to lower income except manager's unit; **and**
  - ❑ Paratransit service; **or**
  - ❑ Within one-half mile of fixed bus route service that operates 8 times per day, with unobstructed access to that service.
- NO vehicular parking requirement *(AB 2345; 09/28/2020)*



DENSITY BONUS PARKING STANDARDS – TRANSIT ORIENTED

- Rental **special needs** housing development or supportive housing with:
  - ❑ All units affordable to lower income except manager's unit; **and**
  - ❑ Paratransit service; **or**
  - ❑ Within one-half mile of fixed bus route service that operates 8 times per day, with unobstructed access to that service.
- NO vehicular parking requirement *(AB 1763; 10/09/2019)*

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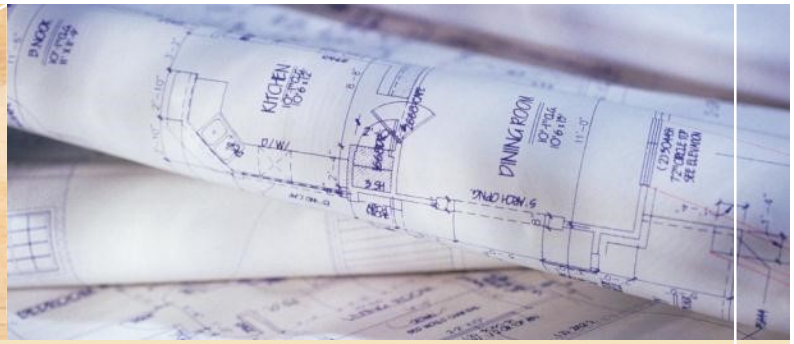

PARKING STUDIES FOR TRANSIT

Government Code 65915(p)(7)

- May require higher parking ratios for transit stop developments if supported by parking study, paid for by City and conducted in last 7 years
- Ensure that study includes all analyses mandated by statute
- Adopt written findings based on study
- Maximum parking ratios cannot exceed basic parking ratios

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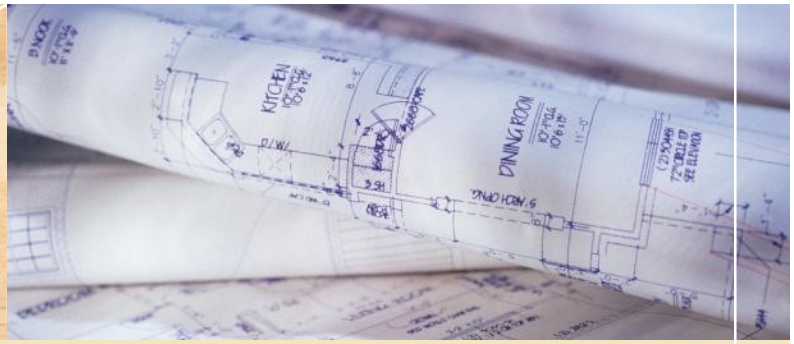

ADDITIONAL REQUIREMENTS (EFFECTIVE JANUARY 1, 2017)

- All density calculations must be rounded up (base density, bonus units and affordable units)
- Cities must adopt application procedures and timelines
- Cities **CANNOT** require preparation of additional report or study not required by State law
  - **CAN** require reasonable documentation to establish eligibility for incentives or concessions, waivers or reductions, or increased parking ratios near major transit stops

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Area Median Income Limits 2020

Income Category	Using Median Income for Household of Four
Extremely Low Income *(30% AMI)*	$ 34,650/annual $ 2,887/month
Very Low Income *(50% AMI)*	$ 57,750/annual $ 4,812/month
Low Income *(60% AMI)*	$ 92,400/annual $ 7,700/month
Moderate Income *(120% AMI)*	$ 111,250/annual $ 9,270/month

Rent Limits 2020

Target Population Area Median Income	Maximum Restricted Rent Cost plus Utility Allowance			
	Studio	1 BR Unit	2 BR Unit	3 BR Unit
Extremely Low (30% AMI)	$486	$556	$625	$695
Very Low (50% AMI)	$811	$927	$1,042	$1,158
Low (60% AMI)	$973	$1,112	$1,251	$1,390

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