


CITY OF LOS ANGELES
INTER-DEPARTMENTAL CORRESPONDENCE

DATE: January 31, 2023

TO: Interested Parties
Los Angeles City Planning Staff

FROM: Vincent P. Bertoni, AICP 
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**SUBJECT: IMPLEMENTATION OF 2022 STATE DENSITY BONUS LAWS -
AB 2334, AB 1551, AB 682**

On September 28, 2022, the Governor signed Assembly Bills (AB) 2334, 1551, and 682, three bills that make various amendments and clarifications to State Density Bonus Law, Government Code (GC) Section 65915. State Density Bonus Law is implemented through the City's Density Bonus Ordinance, primarily Los Angeles Municipal Code (LAMC) Section 12.22 A.25, as amended.

This memo describes the changes, clarifications, and additions to State Density Bonus Law, and will serve as interim guidance for staff and project applicants on the implementation of AB 2334, 1551, and 682 until the time the LAMC is updated to include these provisions, or this memo is otherwise superseded. Staff and interested parties are encouraged to refer to state law in Government Code Section 65915 for additional information, as the memo is not exhaustive. Further, this memorandum provides a summary of pertinent sections for reference purposes only and is not intended to conflict with State Law.

Assembly Bill 2334 (Wicks)

AB 2334 amends State Density Bonus Law to include several changes and clarifications. This includes expanding the locations where significant concessions are provided for 100 percent affordable housing developments to include very low vehicle travel areas, an update to the definition of maximum allowable residential density, a change to the resident age requirement to allow for the elimination of parking, and a clarification regarding the maximum rent levels in 100% affordable projects.

Very Low Vehicle Travel Area

AB 2334 expands the ministerial development bonuses created by AB 1763 (2019) for 100% affordable housing developments, as defined in § 65915(b)(1)(G). The area where these incentives can be utilized has been significantly expanded from areas within a half-mile of a major transit stop to now also include developments within a "very low vehicle travel area" (defined below). Eligible housing development projects located in these areas are permitted unlimited density and are granted an additional three stories, or 33 feet in height, as well as four incentives/concessions. For more information, please refer to the Department's [AB 1763/SB 2345 memo](#)).

A “very low vehicle travel area” is defined as an urbanized area “where the existing residential development generates vehicle miles traveled (VMT) per capita that is below 85 percent of either regional vehicle miles traveled per capita or city vehicle miles traveled per capita” (§ 65915(o)(4)). City Planning has worked with colleagues at the LA Department of Transportation to obtain data files and maps showing both the very low VMT area at both the City and regional level. This information is available on the Zoning Information Mapping Access System (ZIMAS) online under the Planning and Zoning tab.

Updates to the Definition of Maximum Allowable Residential Density

AB 2334 made changes to the definition of "maximum allowable residential density" in the Density Bonus law. This term is used to identify a project's base density, which is the number of units used to calculate the number of density bonus units and affordable units. The definition was updated to mean the maximum number of units allowed under the zoning ordinance, specific plan, or general plan land use designation, including the greater amount if a range of density is permitted or if there is an inconsistency. The density permitted by the general plan is based on the General Plan Land Use designation for a property. If the designation allows for greater density through one of the corresponding zones in the permitted range, then it shall be used to calculate maximum allowable residential density for density bonus projects. This definition applies to properties that may have zoning limitations or prohibitions on residential use. General Plan Land Use designations may be found on the General Plan Master Land Use Plan Map for each Community Plan area, as well as in ZIMAS (see the Planning and Zoning tab).

The definition of "maximum allowable residential density" (§ 65915(o)(7)) was also amended to clarify the measurement of density. If the density standard does not provide a dwelling units per acre standard, an alternative method for calculating density must be used. The City's general plan uses a dwelling units per acre calculation, while zoning typically determines density by using the minimum lot area per dwelling unit, which can be converted to a units per acre standard. In areas where neither of these methods are utilized, or density is not controlled by an area standard, the alternative definition in § 65915(o)(7) shall be used. This alternative method is based on estimating the realistic development capacity of the site using the applicable objective development standards and other factors in the law. A developer may submit a base density study and the City shall accept it, provided it meets the requirements in the law. The same average unit size and other relevant project details used in the study must be used for the proposed project, except as they may be modified due to waivers or concessions.

Senior Housing Age Limits in 100% Affordable Housing Developments

AB 2334 aligned the resident age requirement from 62 years of age to 55 years of age for 100 percent affordable housing developments seeking a parking waiver under Section 65915(p)(3)(B). This incentive applies to qualified projects that either have paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day. This change aligns with the other senior housing development definitions in the law.

Maximum Rent Levels in 100% Affordable Housing Developments

AB 2334 makes changes to the allowable income and rent levels for 100 percent affordable housing developments using the Density Bonus incentives. Under prior law, 100% affordable projects could include up to 20% of units as Moderate Income and at least 20% of all units were required to follow Health and Safety Code Rents (LAHD Schedule 6). The remainder of units could use rent levels established by the California Tax Credit Allocation Committee (TCAC), (LAHD Schedule 1). AB 2334 specifies that the Moderate Income units (110% AMI) must use Health and Safety code rents (LAHD Schedule 6).

For Sale Equity Share Agreements

Finally, AB 2334 amends the section of State Density Bonus law that pertains to the equity sharing agreements required for housing developments that include for-sale affordable units. The amendment provides that an equity-sharing agreement may defer to provisions of a public funding source that includes its own recapture mechanism regarding initial subsidies defined in § 65915(c)(2)(C).

Assembly Bill 1551 (Santiago) - Commercial Development Bonus

AB 1551 reinstated AB 1934, which created the framework for a development bonus for commercial developments which expired in 2022. Under this law, if a local government agrees, a non-residential development may obtain additional non-residential floor area or other development incentives. The required affordability can be satisfied through an agreement for partnered housing with an affordable housing developer pursuant to the requirements of pursuant to § 65915.7 of the Government Code. Local governments must agree to the terms of the affordability agreement in order to approve a commercial bonus. AB 1551 extended the provisions of AB 1934 until January 1, 2028, without making any changes. Interested applicants should contact the Affordable Housing Services Unit at planning.priorityhousing@lacity.org for more information.

Assembly Bill 682 (Bloom) - Shared Housing

AB 682 (Bloom) amends § 65915 of the Government Code, by adding “shared housing building” as a new category in State Density Bonus Law. Pursuant to AB 682, a “shared housing building” is defined in § 65915(o)(6) as a residential or mixed-use structure, with five or more “shared housing units” and one or more common kitchens and dining areas designed for permanent residence of more than 30 days by its tenants. A “shared housing unit” means one or more habitable rooms not contained within another dwelling unit, that includes a bathroom, sink, refrigerator, and microwave within the unit, and complies with the definition of “guestroom” per the California Building Code. This change allows shared housing buildings to be built in areas where density bonus projects are permitted and to receive incentives and density bonuses under the State Density Bonus Law.

AB 682 allows for a shared housing building to include ground floor commercial uses (if otherwise permitted) as well as dwelling units that are not shared housing units. Non-shared housing units are limited to no more than 25 percent of the floor area of the shared housing building (§ 65915(o)(6)(ii) and (iii)).

Eligibility

The provisions of AB 682 apply to shared housing development projects that contain at least 10 percent of the total units (at least five) for low-income households or 5 percent of the total units for very low income households per § 65915(b)(1)(A) and (B). Total units in this context does not include the bonus units added by a density bonus. Shared housing units will be treated as guest rooms for purposes of zoning and allowable density, as they are specified to meet the definition of a guest room in the Building Code. The shared housing use is permitted in zones that allow construction of dwellings with at least five residential units, including guest rooms. This includes sufficiently sized lots in the RD1.5 and less restrictive zones, as well as in R2 zones adjacent to commercial and industrial zoned properties. Because AB 682 created an allowable type of shared housing development project that may use density bonus, it supersedes local zoning regulations that would otherwise prohibit a shared housing building, including but not limited to the limitations on the number of guest rooms in particular residential building types in the zoning code (e.g. apartment house, etc.), the requirement to include dwelling units in these building types, and the prohibition of kitchens in guest rooms.

Incentives

AB 682 establishes that a room or series of rooms meeting certain standards may be considered a “shared housing unit” and can be eligible for a State Density Bonus, including additional incentives or concessions when certain affordability standards are met. In addition, no minimum unit size requirements and no minimum bedroom requirements apply to these units.

Implementation and Effective Date of Laws

On January 1, 2023, the amendments to State Density Bonus Law described above became effective and available to any Density Bonus project, provided the project meets the criteria in state law as specified above. In the case where certain applicable requirements have been changed (e.g., the new definition of maximum allowable residential density and changes in income/age requirements), these will be applied at the time of project entitlement review and at building permit issuance.

To make a request for utilization of additional bonuses or allowances provided by these changes to state law after a discretionary entitlement case application has been submitted, but prior to a letter of determination being issued, the project applicant or representative should contact the planner assigned to the case (planner information is available in the online Planning Case Tracking System (PCTS)). The Affordable Housing Referral Form and any other relevant materials may need to be amended to include any new information pertaining to the new request.

If a project has already received an approval for a planning entitlement, the project applicant should send a written request highlighting all material changes to the project, along with revised plans and materials, to the Senior City Planner of the Project Planning team that processed the entitlement case. Depending on the types of changes, additional steps or entitlements may be needed. Project Planning will verify project eligibility standards and other details and may request an update to any necessary forms. Documentation of this change should also be added to the project case file.

For any questions related to this memo, please contact the Affordable Housing Services Section at planning.priorityhousing@lacity.org. For questions about the building permit process please contact LADBS through the City's 311 call center by dialing 311 or by visiting <http://www.ladbs.org/our-organization/customer-services/contact-us>.