



## DEPARTMENT OF CITY PLANNING Executive Office

City Hall, 200 N. Spring Street, Room 525, Los Angeles, CA 90012

**DATE:** November 2, 2022

**TO:** Interested Parties  
Department of City Planning Staff

**FROM:** Vincent P. Bertoni, AICP  
Director of Planning  
Department of City Planning

**SUBJECT: IMPLEMENTATION OF STATE DENSITY BONUS LAW - AB 2345 (2020) and AB 1763 (2019) - REVISED MEMORANDUM**

On September 28, 2020, the Governor signed Assembly Bill (AB) 2345. The bill amends the State Density Bonus Law (Government Code Section (§) 65915), including provisions relating to parking and 100% affordable housing development projects, which were created by a bill passed the prior year, AB 1763 (2019).

This memo will serve as interim guidance for staff and project applicants on the implementation of AB 2345 and AB 1763 until the time the City's Density Bonus Ordinance is updated to include these provisions, or this memo is otherwise superseded. This memo supersedes the December 17, 2015 AB 744 City Planning memo and the November 10, 2021 Implementation of State Density Bonus Law - AB 2345 (2020) and AB 1763 (2019) memo. Staff and interested parties are encouraged to refer to state law in § 65915, as the memo is not exhaustive.

### **AB 2345 Provisions and Exemptions**

AB 2345 amends State Density Bonus Law to include several changes and clarifications. This includes minimum automobile parking standards, a clarification on how to determine proximity to a *major transit stop*, as well as expanded incentives for 100% affordable housing.

The City of Los Angeles is exempt from some provisions of AB 2345, including the above 35% density bonus provision in subdivision (f) and the revised incentive calculations in § 65915(d)(2)<sup>1</sup>. This is because the City meets the exemption criteria in § 65915(s) by having an existing housing incentive program that allows for density bonuses in excess of the 35% density

<sup>1</sup> §65915(s) says cities are exempt from "complying with the incentive and concession calculation amendments" in §65915(d)(2) "particularly subparagraphs (C) and (D). City Planning understands there was a drafting error and that subparagraph (B) and (C) should be included in the exemption, but not subparagraph (D). This is supported by noting that Subparagraphs (B) and (C) amended the incentive calculations while Subparagraph (D) did not.

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bonus in state density bonus law (see Transit Oriented Communities (TOC), LAMC 12.24 U.26 and 14.00 A.2, as well as other local incentive programs in Community Plan Implementation Overlays (CPIOs)). However, a recent court judgment<sup>2</sup> has limited the use of LAMC 12.24 U.26 in the Hollywood Redevelopment Plan Area. The City will allow up to a 50% density bonus by right under State law without the use of LAMC 12.24 U.26 for projects within the Hollywood Redevelopment Plan Area. As such, the City will continue to apply the incentive calculations and percentages in § 65915(d)(2) subparagraph (B) and (C) that were in effect prior to AB 2345 which are reflected in LAMC 12.22 A.25(e), with the exception of the Hollywood Redevelopment Plan Area.

***Changes to Automobile Parking Incentives***

AB 2345 made changes to the parking provisions in Density Bonus law, including:

For all Density Bonus projects, the maximum parking ratio that can be required for two and three bedroom units is 1.5 spaces per unit and 2.5 spaces per unit for four or more bedrooms [§ 65915(p)(1)(B)]. Zero and one bedroom units will continue to require one space. The new parking ratios effectively replace LAMC 12.22 A.25(d)(1).

If a development project contains at least 11% very low income or 20% low income units (calculated off base density), and is located within one-half mile of a *major transit stop*, it is now eligible for a parking ratio of 0.5 spaces per unit regardless of the number of bedrooms per unit (§ 65915(p)(2)).

For development projects consisting of rental units that are 100% affordable to lower income households (defined by § 50052.2 of the CA Health and Safety Code, which includes low, very low, and extremely low income households), exclusive of a manager's unit or units, no parking spaces can be required per § 65915(p)(3) if the project is:

- Located within one-half mile of a *major transit stop* and there is unobstructed access to the major transit stop from the development, or
- A development for individuals who are 62 years of age or older that complies with Sections 51.2 and 51.3 of the Civil Code and the development has either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.

The 10 and 15 percent bicycle parking replacement options in LAMC 12.21 A.4 may apply on top of these state automobile parking reductions, consistent with current practice.

***Clarifications Regarding Proximity to a Major Transit Stop***

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<sup>2</sup> AIDS Healthcare Foundation v. City of Los Angeles et. al., Sacramento Superior Court, Case No. 34-2020-80003462-CU-WM-GDS.

AB 2345 included two amendments to § 65915 that clarify what it means for a project to be located “within one-half mile of a *major transit stop*.” A *major transit stop* is defined in the Public Resources Code § 21155 (b) and is used to provide particular density increases, incentives or concessions, and vehicular parking ratios for qualified Density Bonus projects.

The first amendment clarifies the points of measurement as follows:

A proposed project is to be considered “located within one-half mile of a major transit stop” if *any point* on property of the proposed development is within a half mile distance of *any point* on the property on which a major transit stop is located, including any parking lot owned by the transit authority or other local agency operating the major transit stop (§ 65915(o)(2)).

The bill also includes text that clarifies what “natural or constructed impediments” means when determining if a project has “unobstructed access to a major transit stop” for the purpose of applying parking reductions within one-half mile of a stop (other incentives are not affected by this provision).

“Natural or constructed impediments” includes, but is not limited to, freeways, rivers, mountains, and bodies of water, *but does not include* residential structures, shopping centers, parking lots, or rails used for transit.” (§ 65915(p)(2)(B)).

### ***100% Affordable Housing Developments***

AB 2345 clarifies and expands several provisions that pertain to 100% affordable housing developments using the Density Bonus program that were created by AB 1763 (2019). AB 2345 clarified the allowable rent and income levels required to qualify as a 100% affordable housing development project per § 65915(b)(1)(G) as follows:

- Income levels for all dwelling units, exclusive of a manager’s unit or units, must be restricted for lower-income households (defined in § 50079.5), except that up to 20 percent of all units in the development may be restricted for Moderate Income households (defined by § 50053). The 20 percent figure is based upon all proposed numbers of units in a development, including bonus units. Income limits for each project will be determined by LAHD (see LAHD’s Land Use Rent-Income Schedule 6 or 7), and
- Rents for at least 20 percent of the units must be set at an affordable rent, as defined in § 50053 of the Health and Safety Code (see LAHD’s Schedule 6 or 7, depending on funding). The remainder of the units shall be set at rent levels consistent with the maximum rent level for a housing development that receives an allocation of state or federal low-income housing tax credits from the California Tax Credit Allocation Committee (TCAC). Rent limits for each project will be determined by LAHD (see LAHD’s Land Use Rent-Income Schedule 1). For more information about the rent schedules for AB 1763 projects please refer to LAHD.

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As referenced, the earlier bill AB 1763 (2019) created several ministerial development bonuses for 100% affordable projects that meet the specified state criteria, including:

- A density bonus of 80% (§ 65915(f)(3)(D)(i))
- Unlimited density and a height increase of 33 feet or three additional stories<sup>3</sup>, for 100% affordable projects located within ½ mile of a major transit stop (§ 65915(f)(3)(D)) and 65915(d)(2)(D)
- Zero automobile parking requirements for special needs housing that has paratransit service or is located within one-half mile to fixed bus route service that operates at least eight times per day , as well as all supportive housing (§ 65915(p)(4))"§ 65915(p)(4)); and
- An additional concession or incentive (allowing four in total) (§ 65915(d)(2)(D)). The incentive may be on the Menu of Incentives or off-menu and will be subject to the January 25, 2021 On-Menu Density Bonus Ministerial Review Process memo.

The first three categories of requests in the list above, in addition to the parking incentives in § 65915(p), can be sought without a Planning Director Determination and are not considered on-menu incentives or waivers or modifications of development standards not on the menu per the City's Density Bonus Ordinance. 100% affordable projects seeking on-menu incentives will be reviewed through the on-menu process (LAMC 12.22 A.25(g)(2)), and 100% affordable projects seeking off-menu incentives or additional waivers, will be reviewed through an off-menu process (LAMC 12.22 A.25(g)(3)).

AB 2345 also allows all 100% affordable housing projects located within half-mile of a major transit stop to be eligible for the specified statutory waiver or reduction of development standards identified in the second bullet above as well as additional waivers that the City may agree to (§ 65915(e)(3)). Prior to the change, projects that took advantage of the transit-based density incentive in § 65915(f)(3)(D)(ii)) were not permitted to request additional waivers. The City will allow eligible applicants to request additional waivers, which will be treated procedurally as an off-menu waiver or modifications per LAMC 12.22 A.25(g)(3).

#### *Eligible Projects*

The provisions of Density Bonus law described above and contained in § 65915 are available to any “housing development” project (defined in LAMC 12.22 A.25(b)) that meets the relevant affordability eligibility criteria under state law; however, the LAMC specifies that certain local housing incentive programs and other entitlements can not be used in combination with Density Bonus.

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<sup>3</sup> The height increase is calculated on top of all current zoning height limits, including transitional height. The increase in height does not affect the projection allowances in LAMC 12.21.1 B.3, which apply to base zoning height limits.

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For example, TOC housing development projects are generally not permitted to receive TOC development bonuses on top of density or development bonuses from § 65915 (per Section IV.4 in the TOC Guidelines). However, with regards to parking, Section VI.2.f of the TOC Guidelines states, “Parking reductions offered for Eligible Housing Developments shall always be consistent or greater than those in § 65915(p).” This is based upon the enabling language in Measure JJJ (LAMC 12.22 A.31(b)(2)(ii)), which specifies that parking incentives offered through the TOC program must be consistent with the state density bonus parking allowances outlined in that section. Because AB 2345 amends this section (§ 65915(p)(2)) to create parking reductions that are greater than those in the TOC Guidelines, requests for parking reductions consistent with this state law section can be applied to TOC projects.

Finally, the amendments to § 65915 regarding proximity to a Major Transit Stop described above shall apply to Density Bonus and TOC Projects, but not to other areas of state law that utilize this term (Major Transit Stop). The TOC was designed to align with state DB law; However there was no change to the broader definition of Major Transit Stop in Public Resources Code Section 21155.

#### ***Implementation and Effective Date***

On January 1, 2021, the AB 2345 amendments described above became effective and available to any housing development project, provided the project meets the criteria in state law. The various ministerial development bonuses described above (e.g. density increase, parking reductions, and height increase of up to 33 feet), as well as rent and income allowances provided for 100% affordable housing projects, are available to projects without triggering any additional discretionary processes pursuant to state law. This is consistent with § 65915(f)(5) and § 65915(j)(1), as well as the City’s Density Bonus Ordinance (LAMC 12.22 A.25). While no Affordable Housing Referral Form or Letter of Determination should be required, projects seeking one of the ministerial bonuses described above will require a LAHD clearance, in addition to a Transit Verification Form [CP-4065](#) (when necessary) issued by City Planning.

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, please contact the planner assigned to the case (available in the online Planning Case Tracking System (PCTS)). The Affordable Housing Referral Form and any other relevant materials should be amended to include the new request.

If a project already has an approved entitlement, revised plans will need to be provided to the Senior Planner of the Project Planning team that processed the entitlement case. A Transit Verification Form may need to be obtained from City Planning, and the project case file will need to be updated with a staff letter to the file to reflect the additional ministerial incentives, as well as any revised plans to reflect physical changes to the project made as a result of the new incentive(s).