

2021 Housing Legislation Overview

April 2022



2021 Housing Legislation

State Legislature is encouraging housing production and greater density by eliminating cities' discretion

2021 Housing Legislation

- SB 9 (Housing Opportunity and More Efficiency Act)
- SB 10 (Optional Upzoning)
- SB 8 (Updates the 2019 Housing Crisis Act (SB 330))
- AB 1174 (Amends Streamlined Approval Process (SB 35))

2021 Housing Legislation

- AB 345 (Amends ADU legislation)
- SB 478 (Establishes Minimum FAR Standards)
- SB 290, AB 634 and AB 571 (Amends Density Bonus Laws)
- AB 140 (Implements Budget Act of 2021)

SB 9 (Ch. 162, 2021)

Sen. Atkins (D – San Diego)

Housing Opportunity and More Efficiency (HOME) Act (Gov. Code, §§ 65852.21, 66411.7) requires City's ministerial approval, without discretionary review or hearings, of duplexes on single-family zoned parcels & urban lot splits

City's SB 9 informational bulletin & Checklist:

<https://www.carlsbadca.gov/home/showdocument?id=8771&t=637768992130970000>

<https://www.carlsbadca.gov/home/showpublisheddocument/8769/637774944242170000>



SB 9 (Ch. 162, 2021)

Sen. Atkins (D – San Diego)

Requires ministerial approval of:

– Single Lot Duplex:

- Allows two units on a parcel zoned for single-family housing

– Urban Lot Splits:

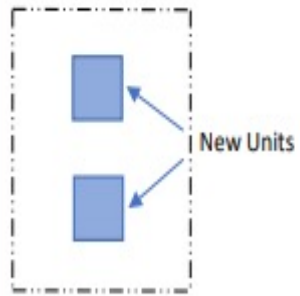
- Allows “urban lot splits” of SFR zoned parcel into 2 lots and placement of up to 2 units on each newly-created lot

TWO-UNIT DEVELOPMENT §658521.21¹

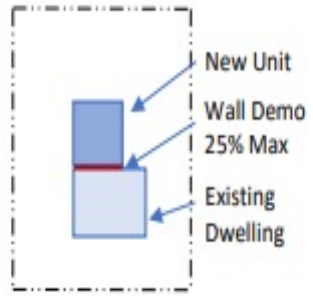
URBAN LOT SPLIT §66411. 7^{1,2,3&4}

Examples

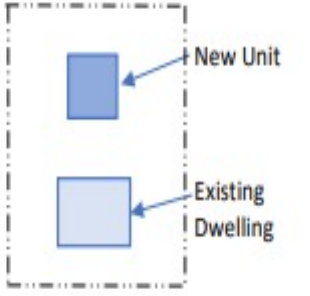
Two New Units



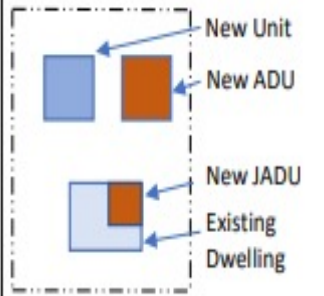
New Unit + Existing Dwelling Unit Attached



New Unit + Existing Dwelling Unit Detached



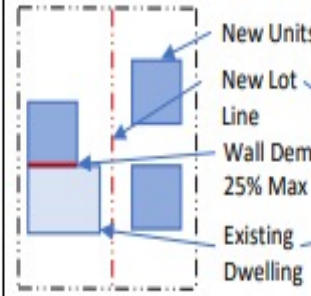
New Unit + New ADU + New JADU + Existing Dwelling Unit



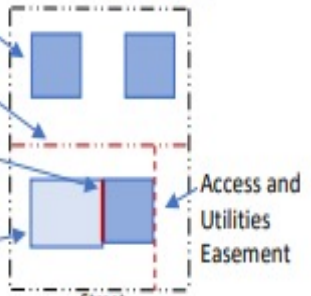
Two New Units Per lot



Three New Units + Existing Dwelling Unit



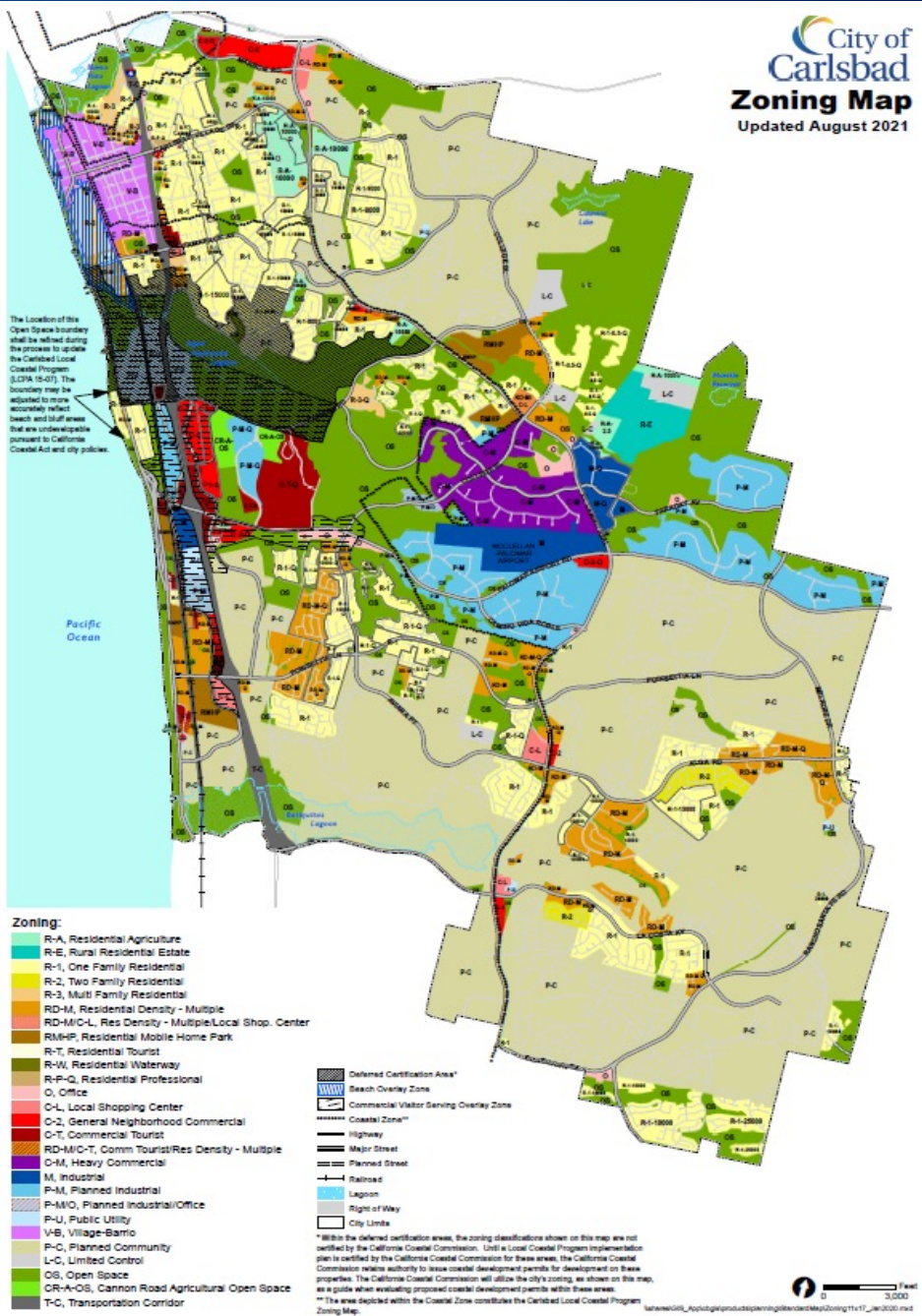
Three New Units + Existing Dwelling Unit W/Easement Condition



SB 9, cont.

Qualifying Parcels:

- SFR parcel located in “urban area”
 - Located within a city, the boundaries include urbanized area/cluster, as defined by US Census Bureau
 - Single Family Zoned parcels (Potentially includes R-A, R-E or R-1 Zones)



Building Construction Standards

- Development must adhere to all objective zoning, subdivision, and design review standards.
- City cannot impose objective standards that would:
 - preclude construction of two units or
 - preclude units from being at least 800 SF each

SB 9 Definition of “Objective”

“Objective zoning standards,” “objective subdivision standards,” and “objective design review standards” involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable

Building Construction Standards

- City may require off-street parking of up to one space per unit unless parcel is located within:
 - ½ mi. of high-quality transit corridor or major transit stop or
 - 1 block of a car share vehicle

Building Construction Standards

- Side and rear lot line setbacks cannot be less than 4 ft.
- New structure may be constructed in same location with same dimensions as an existing structure, despite city setback requirements

Building Construction Standards

- Units cannot be used as short-term vacation rentals
 - Must be rented for a term longer than 30 days
- Residential units connected to an onsite wastewater treatment system
 - Requires percolation test

SB 9 Urban Lot Split Standards

- Two parcels must be approx. equal size
 - No parcel can be smaller than 40% of original parcel
 - Minimum lot size shall be 1,200 SF*
- City can require each lot must provide access to public right of way per City standards, a minimum of 20 ft. in width

SB 9 Urban Lot Split Standards

- One lot split per parcel allowed
 - Recorded restriction prohibiting future lot splits and limiting uses to residential uses
- Property owners must sign affidavit stating they will occupy one unit as a “primary residence” for at least 3 years (with non-profit exceptions)

SB 9 & Coastal Zone Standards

- SB 9 does not supersede Coastal Act
 - Except local agency not required to hold public hearings for CDP applications for SB 9 projects

SB 9 & Coastal Zone Standards

CCC Memo re SB 9:

<https://documents.coastal.ca.gov/assets/rflg/SB9-Memo.pdf>

STATE OF CALIFORNIA—THE RESOURCES AGENCY	GAVIN NEWSOM, GOVERNOR
CALIFORNIA COASTAL COMMISSION 455 MARKET STREET, SUITE 300 SAN FRANCISCO, CA 94105-2219 VOICE (415) 904-5200 FAX (415) 904-5400 WWW.COASTAL.CA.GOV	
To: Planning Directors of Coastal Cities and Counties From: John Ainsworth, Executive Director, California Coastal Commission Date: January 21, 2022	
Re: Implementation of New SB 9 Housing Laws in Sea Level Rise Vulnerable Areas	

- SB 9 “does not supersede or in any way alter application of the Coastal Act, except that local governments are not required to hold public hearings for coastal development permit applications.
- Accordingly, for projects in the coastal zone, review for consistency with Coastal Act and applicable LCP policies is still required, and that may involve the application of discretion.”

Carlsbad's SB 9 Permitting Process

All application submittals must include:

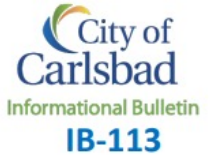
- SB 9 Eligibility Checklist (B-74)
 - Available here: <https://www.carlsbadca.gov/home/showpublisheddocument/8425/637727626888570000>
- Residential Building Permit Application (B-1)
 - Include “SB 9 SINGLE LOT DUPLEX” in description
 - Available here: <https://www.carlsbadca.gov/home/showpublisheddocument/6719/637713590178170000>

Carlsbad's SB 9 Permitting Process

If Single Lot Duplex development also involves an Urban Lot Split:

- City may allow concurrent processing of both applications
- Info-Bulletin IB-113
 - IB-113 is available here:
<https://www.carlsbadca.gov/home/showpublisheddocument/8164/637704327248070000>

Concurrent Permit Processing



This information bulletin provides the process for approving a request to allow a building, grading, or landscape permit application to be reviewed concurrently with the processing of a discretionary permit.

BACKGROUND

To help reduce permit processing times, applicants often request that building permits, precise grading plans, and discretionary permits be reviewed concurrently. However, there are risks associated with concurrent processing in that project changes required as part of the discretionary review process also need to be made to the construction drawings. This can result in duplicative and multiple plan reviews, which result in additional staff time and added project costs to the customer.

As such, concurrent processing is sensible when the project is likely to remain relatively stable during the review process, with only minor issues remaining, such that ministerial permit application materials are unlikely to need a significant rework due to discretionary permit review comments.

ELIGIBILITY REQUIREMENTS

All discretionary projects are eligible for concurrent processing of ministerial permits, subject to the following limitations.

Documents Referenced

Concurrent Permit Processing Agreement; [P-34](#)

residence are eligible for concurrent processing as early as when the CDP application is submitted.

CONCURRENT PROCESSING AGREEMENT

Applicants undertaking concurrent processing must acknowledge in writing that they understand the risk of processing ministerial permits prior to approval of the discretionary entitlement and no ministerial permits will be issued until after discretionary permit approval and following the conclusion of the appeal period.

The applicant shall submit a signed Concurrent Permit Processing Agreement ([Form P-34](#)) acknowledging that concurrent permit review will be performed at the applicant's risk.

APPROVAL AND QUESTIONS

The project planner who is processing the discretionary permit is authorized to approve concurrent processing requests when they are consistent with the eligibility requirements specified in this bulletin. Deviations can only be approved by the City Planner on a case-by-case basis. Any questions should be directed to the project planner who is processing the discretionary permit application.



Carlsbad's SB 9 Permitting Process

Applications for urban lot splits generally follow permit processing steps in Carlsbad Municipal Code § 20.24

- Development Permit Application (P-2)
 - Include “SB 9 URBAN LOT SPLIT” in description
 - Available here:
<https://www.carlsbadca.gov/home/showpublisheddocument/3760/637702369305000000>

Carlsbad's SB 9 Permitting Process

SB 9 projects in the Coastal Zone must include a Coastal Development Permit Application:

- Development Permit Application (P-2)
 - Include “AN SB 9 PROJECT” in description
- Applications generally follow coastal development permit procedure in CMC § 21.201

High Standard for Denying SB 9 Projects

- To deny eligible SB 9 project, City needs to adopt written findings establishing specific adverse impact based on existing objective quantifiable standards on public health and safety that cannot be mitigated

SB 9: Areas of Potential Local Regulation

- Allow for more than 25% demolition (Gov. Code, § 65852.21(a)(5)(A))
- Allow lot sizes smaller than 1,200 sq. ft. for Urban Lot Splits (Gov. Code, § 66411.7(a)(2)(B))
- Require Public Utility Easements for Urban Lot Splits (Gov. Code, § 66411.7(e)(1))
- Require Right of Way Access for Urban Lot Splits (Gov. Code, § 66411.7(e)(2))
- Require Off-Street Parking at 1 space per unit, with exceptions (Gov. Code, § 66411.7(e)(3))
- Allow 24-month time period before an approved or conditionally approved tentative subdivision map expires (Gov. Code, § 66452.6(a))
- Coastal Commission Recommendations (1) Revise LCP Public Hearing requirements, (2) Consider density modifications consistent with SB9 outside of Sea Level Rise locations.

SB 10 (Ch. 163, 2021)

Sen. Wiener (D – San Francisco)

Optional Upzoning for 10 Dwelling Units



SB 10 (Ch. 163, 2021)

Sen. Wiener (D – San Francisco)

SB 10 allows local agencies to adopt an ordinance to allow up to 10 units on parcels located in:

- A transit-rich area or
- An urban infill site

SB 8 (Ch., 2021-2022)

Sen. Skinner (D – Berkeley)

Amends Housing Crisis Act of 2019 (SB 330),
which limits the City's discretion in approving
housing projects

SB 330 (Housing Crisis Act of 2019) Recap

SB 330 limits City's authority:

- Housing projects subject only to the ordinances, policies, standards and fees effective at time of "preliminary application"
- No net loss in residential capacity allowed thru downzoning
- No moratoriums on housing
- Streamlined review of entitlements for housing projects
- No more than 5 hearings
- Required replacement of certain "protected units"

SB 330 (Housing Crisis Act of 2019) Recap

- Applies to “housing development projects”
 - Projects with only residential units
 - Mixed use projects with 2/3 sq. ft. residential
 - Transitional and supportive housing

SB 8

- “Housing development projects” include projects:
 - With no discretionary approvals
 - With both discretionary and non-discretionary approvals
 - Proposing a single dwelling unit

SB 330 Hearings

- City required to act on housing development projects by 5th hearing
 - SB 8: Five hearing requirement includes appeals and hearings on density bonuses

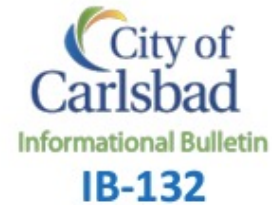
SB 8

- Clarifies SB 330
 - No Net Loss Provision: limits City's ability to reduce residential density without *concurrently* increasing density elsewhere
 - *Concurrently*: at the same meeting
 - Or 180 days for a housing project

SB 8

- Modifies protection for replacement of existing dwelling units
- Requires tenant relocation and assistance
 - Relocation benefits and right of first refusal to comparable unit in the new development

SB-330 Housing Crisis Act



CA Senate Bill 330 (SB-330) amended a number of statutory provisions and added Gov. Code § 66300, commonly referred to as the Housing Crisis Act of 2019 (HCA), which became effective on Jan. 1, 2020. This Info-Bulletin provides an overview of how the HCA affects the city's review and approval of eligible housing developments. The bulletin has been updated consistent with SB-8 (effective Jan. 1, 2022).



Documents Referenced

- The Housing Crisis Act; [SB 330](#)
- Prelim Housing Development (SB-330) Pre-Application; [P-32](#)
- State Density Bonus Law; [IB-112](#)
- Density Bonus Supplemental Checklist; [P-1\(H\)](#)
- Informal Preliminary Review Request Form; [P-14](#)
- [Master Fee Schedule](#)
- CMC Definitions; [§21.04](#)
- Carlsbad Growth Management Plan; [GMP](#)

The following sections provide information on some of the more important provisions of the HCA. *It should be noted that the HCA is currently intended to apply to housing developments projects which have submitted a preliminary application before Jan. 1, 2030, and the HCA, as a whole, sunsets on Jan. 1, 2034.*

PROJECT ELIGIBILITY

Projects that are located outside of California Department of Forestry and Fire Protection's (CALFIRE) mapped "Very-High Fire Severity" zones (Gov. Code § 51178) and meet the following definitions of Housing Development are eligible for

AB 1174 (Ch. 160, 2021)

Asm. Grayson (D – Concord)

Modifies Streamlined Approval Process for
Qualifying Multifamily Housing Projects (SB 35)



SB 35 (Housing Accountability Act) Recap

- SB 35 provides a streamlined ministerial approval process for eligible affordable housing projects
- City is subject to SB 35 streamlining for residential developments with at least 50% affordability

AB 1174

- Amends SB 35 to allow earlier vesting and longer approval times
 - Applies retroactively to projects approved prior to January 1, 2022

AB 1174

- Vesting: project needs to start “construction activity” including demolition and grading
- Modification results in extension by number of days between the request and final approval, plus 180 days

SB-35 Multifamily Housing



CA Senate Bill 35 (SB-35) adopted several provisions related to housing, including a streamlined ministerial review process for multifamily housing developments under Gov. Code § 65913.4, which became effective Jan. 1, 2018. Qualifying projects are considered ministerial and not subject to a conditional use permit (CUP).

This Info-Bulletin provides an overview of how the SB-35 affects the city's review and approval of eligible housing projects. This bulletin has been updated to include several bills amending Gov. Code § 65913.4, including AB-1174 (Sept. 2021).

Documents Referenced

- Housing Accountability Act, [SB-35](#)
- Multifamily Housing Streamlining Law; [§65913.4](#)
- HCD 2021 Updated SB-35 [Guidelines](#)
- 2010 Census – Urbanized Area Reference [Map](#)
- HCD's Statewide SB-35 RHNA Determination [Summary](#)
- Carlsbad Housing Plan, [IB-137](#)
- State Density Bonus Law, [IB-112](#)
- SB-330 Housing Crisis Act; [IB-132](#)
- Prelim Housing Development (SB-330) Pre-Application; [P-32](#)
- SB-35 Multifamily Housing Permit Streamline Checklist, [P-35](#)
- Development Permit Application, [P-2](#)

AB 345 (Ch. 343, 2021)

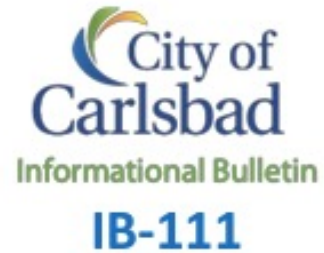
Asm. Quirk-Silva (D – Fullerton)

Cities are now required to allow sale/conveyance
of ADUs separately from the primary residence

AB 345

- *City must allow* sale/conveyance of ADUs under certain circumstances
 - Developed by nonprofit corporation
 - Sold to qualified low-income buyer
 - Held in an agreement with specific requirements

Accessory Dwelling Units



Over the past decade, the state legislature has made several modifications to Gov. Code [§65852.2](#), progressively making it easier and less expensive for property owners to build accessory dwelling units, often called ADUs. This Info-Bulletin outlines the city's development requirements for new ADU construction that is consistent with state law, as of January 2021.

Considering the constantly evolving laws affecting ADUs, the CA Department of Housing and Community Development (HCD) publishes a useful [ADU Handbook](#) that provides information on the most recent and relevant changes to ADU laws. HCD's resource guide should be used as a supplement to this Info-Bulletin.

Documents Referenced

State law; [§65852.2](#) & [§65852.150](#)

HCD; [ADU Handbook](#)

HCD; [ADU Website](#)

Health & Safety Code; [§18010](#) & [§18009.3](#)

Carlsbad Municipal Code; [§21.10.030](#)

Residential Building Permit Application; [B-1](#)

Minor Coastal Development Permit; [P-6](#)

market-rate home construction. ADUs can be integrated into existing or proposed homes in a variety of ways, including converting a portion of an existing house, adding to the existing house, converting an existing garage, storage area, studio

2021 Density Bonus Legislation

SB 290 – expands concessions/incentives for projects providing affordable student housing

AB 634 – allows local agencies to require longer affordability covenant periods

AB 571 – prohibits certain fees on affordable units

State Density Bonus Laws

- California's Density Bonus Law is a state mandate that allows for more favorable development requirements in exchange for providing affordable/senior housing
- Project's density can increase above the maximum set under the Carlsbad General Plan by as much as 50%

Carlsbad's Density Bonus Regulations

- Incentives and Concessions
 - Allows developer to deviate from City's design standards and other regulations
 - Depends on amount and type of proposed affordable units
- Waivers
 - Reduction in development standards when such standards make construction *physically infeasible*

Carlsbad's Density Bonus Regulations

- Parking
 - City may not require more than these parking standards
 - State law further limits parking requirements

Unit Type	Required Parking
Studio	1 space
One Bedroom	1 space
Two Bedroom	1.5 spaces
Three Bedroom	1.5 spaces
Four Bedroom	2.5 spaces

Carlsbad's Density Bonus Regulations

- Density Bonus Ordinance, CMC § 21.86.010 et seq.
- City's Informational Bulletin 112
 - Available here: <https://www.carlsbadca.gov/home/showpublisheddocument/8169/637704326938730000>

State Density Bonus Law

This Information Bulletin outlines the development allowances provided under Govt. Code [§65915](#), commonly referred to as **State Density Bonus Law**. The bulletin is only intended to summarize many provisions of state law rather than cite them in total. The document has been updated to include recent bills amending [§65915](#), including [SB-290](#), which are effective Jan. 1, 2022.



Documents Referenced

State Density Bonus Law; [§65915](#)
City Density Bonus Ordinance; [§21.86](#)
City Inclusionary Housing Ordinance; [§21.85](#)
City Growth Management Plan; [GMP](#)
Land Use Review Application; [P-1](#)
Density Bonus Supplemental Checklist; [P-1\(H\)](#)
SB-330 Housing Crisis Act; [IB-132](#)



SB 290

- Amends State Density Bonus Law
 - Applies to student housing projects with 20% lower-income students
 - Additional parking incentives for moderate income projects
 - City can only deny incentives, waivers and concessions based on health or safety impacts

AB 634

- Amends Density Bonus Law
 - Law requires 55-year covenants limiting affordability on units qualifying it for density bonus
- AB 634 allows local agencies to pass ordinance requiring an affordability period longer than 55 years for any units

AB 571

- AB 571 amends Density Bonus Law to prohibit affordable housing impact fees, including inclusionary zoning fees and in-lieu fees, from being imposed on housing development's affordable units

Density Bonus Applications



Density Bonus Supplemental CHECKLIST P-1(H)

Community Development Dept.
Planning Division
1635 Faraday Avenue
(760) 602-4600
www.carlsbadca.gov
Refer to [IB-112](#) for information

The information listed in this checklist is required to be completed for all residential development applications being processed under Government Code §65915 – 65918 (State Density Bonus Law). Please prepare the required materials/information described in this checklist and submit in one document entitled “Supplemental Application – Density Bonus Program”. Refer to Information Bulletin [IB-112](#) for additional information.

PROJECT LOCATION

Include the street address and APN(s) of the subject property.

PROPERTY DESCRIPTION

Include information about the property and immediate area such as general location, prior uses on-site, site characteristics (i.e., slopes, habitat, drainage), neighborhood setting, General Plan designation, zoning designation, and maximum density allowed by zoning.

PROJECT DESCRIPTION

Describe the proposed project. Please make sure to include the following information.

- Total number of lots/units proposed (maximum density and density bonus units)
- Type of housing proposed and any anticipated construction phasing
- Number, location and income level of the proposed affordable units
- Project access, infrastructure, and any proposed amenities/open space

DENSITY CALCULATIONS

Indicate the number of lots proposed and how many are proposed to be designated as affordable. Include the following information:

- Show all density calculations
- Income levels of the affordable units
- Number of “Concessions/Incentives” requested
- Number of “Waivers” requested



AB 140 (Homebuyers Program/Surplus Lands Amendments)

- State Excess Lands Amendments
 - Provides DGS with expanded authority to lease State land for affordable housing, shelters or recreation
 - For certain projects, deletes requirement for City approval
 - Expands DGS authority to allow some commercial development in connection with affordable housing

Attorney General's Housing Strike Force

“Our Housing Strike Force, along with the tenant roundtables and Housing Portal, will allow DOJ to ramp up our efforts to tackle [the housing crisis] and advance housing access, affordability, and equity across California. This is a top priority and a fight we won't back down from. As Attorney General, I am committed to using all the tools my office has available to advance Californians' fundamental right to housing.”

Attorney General Bonta



Housing Strike Force

- Housing Strike Force ensures compliance with California's housing laws
- Independent authority to enforce laws & sue cities
- I.e., warnings to cities of Encinitas, Woodside, and Pasadena

Thank You!



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