



Summary of AB 1287's Changes to State Density Bonus Law for Housing Projects Effective January 1, 2024 ([Assembly Bill 1287](#))

In April 2023, the City Council adopted zoning changes to implement the certified 6th Cycle Housing Element, as mandated by State law. These changes to development standards and the City's review process for housing projects went into effect on June 1, 2023. Recent updates to State Density Bonus Law took effect on January 1, 2024 providing, amongst other minor revisions, an additional density bonus for increased moderate and very low income affordable housing units. This FAQ explains how the new updates to State Density Bonus impacts housing projects. The City previously conducted two Town Halls on how the Affordable Housing Production Program (AHPP) and State Density Bonus Law work together with an associated FAQ, which can be found here: www.santamonica.gov/housing-element-update.

What do the new changes to State Density Bonus Law allow?

The most significant change to State Density Bonus Law (SDBL) is the provision of an additional density bonus for qualifying projects. When combined with the maximum 50% density bonus provided by State law prior to AB 1287, this could result in up to a 100% density bonus (i.e. "bonus-on-bonus").

In order to qualify for up to 100% density bonus, projects must first provide the maximum amount of on-site affordable housing units in their project that would qualify them for a density bonus. Compliance with the City's Affordable Housing Production Program (AHPP) would ensure that projects are eligible for the maximum 50% initial State density bonus.

[Per HCD's direction](#) a project qualifies for the maximum 50% initial density bonus by complying with the AHPP. The project then becomes eligible for an additional density bonus, up to another 50%, if it provides more affordable units based on the tables below. In order for a project to qualify for a total 100% density bonus, a project would need to provide additional moderate-income units, which are allowed to be rental units¹, on top of the units required by the AHPP.

¹ Before AB 1287, SDBL provided a density bonus for moderate-income units only if those units were for home ownership. That has not changed. However, AB 1287 now allows an additional density bonus when additional moderate-income units are provided, which are allowed to be rental units

Percentage Very Low-Income Units	Percentage Density Bonus
5	20
6	23.75
7	27.5
8	31.25
9	35
10	38.75

Percentage Moderate-Income Units	Percentage Density Bonus
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35
12	38.75
13	42.5
14	46.25
15	50

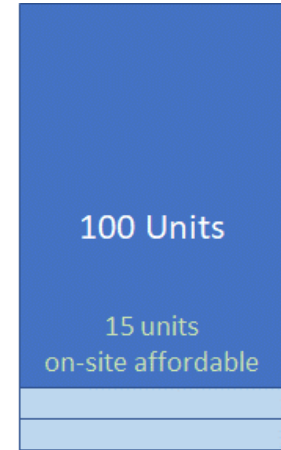
Additionally, AB 1287 expanded the number of incentives/concessions a project can request to accommodate a proposed density bonus and further limits the City’s ability to request documentation to establish eligibility for requests (see below). Certain eligible projects can now request an additional incentive/concession (up to 4) and 100% affordable housing projects can now request up to 5 incentives/concessions.

How does it all work?

Below is an example of how an applicant can utilize the new additional density bonus provision:

1. 100 unit base project provides on-site affordable units in compliance with the AHPP (15% of units evenly divided between very low, low, and moderate income levels)

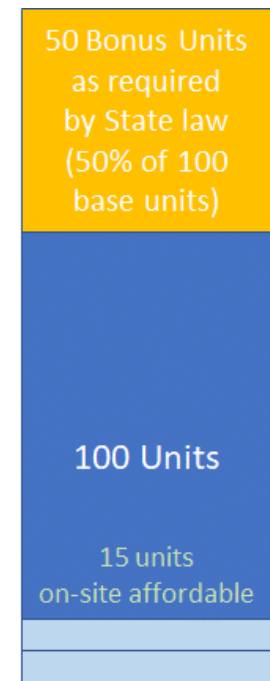
Base Units	Bonus Units	Market Rate	Affordable Units	% Very Low	% Low	% Moderate
100	--	85	15	5	5	5



Base Project +
On-Site Affordable Units
Required 15% Affordable

2. Compliance with the AHPP affords applicant a 50% density bonus

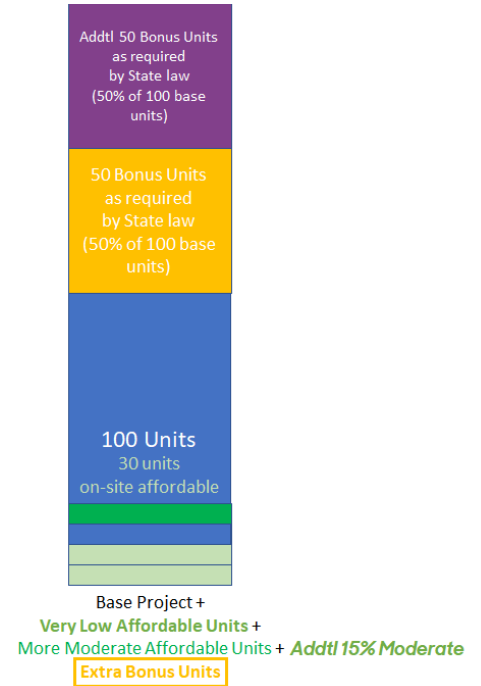
Base Units	Bonus Units	Market Rate	Affordable Units	% Very Low	% Low	% Moderate
100	50	135	15	5	5	5



Base Project +
On-site Affordable Units +
Bonus Units

3. Applicant proposes to provide 15 additional moderate income units (15% of 100 unit base project), providing them an additional 50% density bonus (AB 1287)

Base Units	Bonus Units	Market Rate	Affordable Units	% Very Low	% Low	% Moderate
100	100	170	30	5	5	20



4. Applicant may request up to 3 incentives/concessions and unlimited waivers in order to accommodate the proposed density bonuses.

How many applications have been submitted that are using this new law?

On January 2, 2024, the City received three preliminary development applications in accordance with the Housing Crisis Act of 2019 (SB 330/SB 8), all of which seek the 100% density bonus allowed pursuant to AB 1287.

Is the City required to process applications that are received seeking to use the benefits of AB1287?

Yes, AB 1287 took effect on January 1, 2024 and the City is required to process applications in accordance with State law.

Under State law, applicants may file a preliminary application under SB 330/SB 8. The applicants will then have 6 months to file formal development applications with the City. If those development applications are filed within 6 months, the projects will have vested rights to proceed with entitlements based on the City’s objective standards at the time the preliminary applications were filed. For example, if the City were to make changes to the City’s General Plan or Zoning Ordinance after a preliminary application was filed, those changes will not apply to that project.

The City requires that applicants conduct a community meeting prior to submitting a formal development application for housing projects. If development applications are received for

these projects, staff will commence the work of reviewing the applications to ensure compliance with the City's objective standards as of the time the preliminary applications were filed, and as may be modified by SDBL through incentives/concessions and waivers. If the project complies with City standards, the City will be required to approve the development permit.

It seems that this is going to result in a lot more housing units than was studied in the Housing Element EIR. Doesn't the City have to deny housing projects that exceed what was studied in the EIR and why is the City not doing a new EIR for all of these extra housing units?

Under the City's current streamlined approval process for housing projects, which is a commitment that the City has made under Program 1A of the Housing Element, housing projects on sites less than one acre in size are administratively approved (i.e. no public hearings are required because there is no discretionary action) and thus, not subject to the California Environmental Quality Act (CEQA). A project's request for additional bonus units pursuant to State Density Bonus law does not constitute a discretionary action that would trigger further CEQA review. Furthermore, the Housing Element EIR which was certified in October 2022 studied the potential environmental impacts of approximately 14,000 new housing units in the City through 2029. Housing projects that are consistent with the City's General Plan and Zoning Ordinance have been analyzed in the Housing Element EIR, and as such would not require additional CEQA review.

The number of units studied in the EIR was based on the methodology used to develop the Suitable Sites Inventory (SSI) for the Housing Element and estimates of housing capacity as approved by HCD. The SSI is not permitted to assume use of State density bonus law for housing projects and it would have been too speculative to apply State density bonus law to each SSI site for the purposes of the EIR. CEQA does not require the evaluation of potential impacts that would be too speculative.

How is the City's infrastructure going to serve all of these housing units? Won't this overwhelm our public utilities?

The City requires that new development conduct a study of whether the City's existing infrastructure (e.g. water and wastewater) can service a project. If it is found that new development creates new demand that cannot be met with existing infrastructure, the project would be required to upgrade the existing infrastructure to accommodate the additional demand. The upgrades are completed as part of the construction of the project.

In addition to required upgrades, the City also addresses water supply by requiring that new development within the Reclaimed Water Network area use recycled water for irrigation and dual plumbing and that new development maintain the same water usage as the existing property through the installation of water-efficient fixtures within the project or through offsetting the projected additional water usage elsewhere in the city.

How do these changes in the law affect how the City reviews projects?

AB 1287 places additional limitations on the City's review of projects by eliminating the City's ability to request documentation to establish eligibility for requested incentives or concessions and waivers or reduction of development standards. In preliminary discussions with staff from Housing and Community Development (HCD), the State's position is that the City may request a narrative from developers to explain the eligibility for requested incentives or concessions or waivers rather than supporting documentation.

If the City meets our Regional Housing Needs Allocation (RHNA) targets for each income level before the end of the Housing Element cycle, can the City adjust its housing approvals process? Can the City petition to update the RHNA?

If the City issues building permits that demonstrate that the RHNA has been met at each income level before the end of the Housing Element cycle (October 15, 2029), the City still must continue to maintain the commitments made in the certified Housing Element. If the City takes actions inconsistent with the certified Housing Element, the City could be subject to penalties and judicial action including but not limited to Builder's Remedy. As an example, if a court determines that the City has improperly denied a housing project, pursuant to State law the court can impose fines in a minimum amount of \$10,000 per housing unit in the housing development project on the date the application was deemed complete.

The RHNA is allocated by the Southern California Association of Governments (SCAG) through regional allocations from HCD. There is no process to change the City's RHNA in the middle of a Housing Element cycle.