

File No. 220246

Committee Item No. \_\_\_\_\_  
Board Item No. 29

**COMMITTEE/BOARD OF SUPERVISORS**  
AGENDA PACKET CONTENTS LIST

Committee \_\_\_\_\_

Date \_\_\_\_\_

Board of Supervisors Meeting

Date March 15, 2022

**Cmte Board**

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**OTHER (Use back side if additional space is needed)**

- Copy of AB 2063
- Confirmation of CSAC and LCC Position
- 

Completed by: **Brittney Harrell**  
Completed by: \_\_\_\_\_

Date **March 10, 2022**  
Date \_\_\_\_\_

An asterisked item represents the cover sheet to a document that exceeds 20 pages. The complete document is in the file.

1 [Opposing California State Assembly Bill No. 2063 (Berman) - Expanded State Density Bonus  
2 Law - Unless Amended]

2

3 **Resolution opposing California State Assembly Bill No. 2063, authored by Assembly**  
4 **Member Marc Berman, and urging the San Francisco Legislative Delegation to amend**  
5 **Assembly Bill No. 2063, in recognition of San Francisco’s local planning and affordable**  
6 **tools.**

7

8 WHEREAS, California Assembly Bill No. 2063 (AB 2063) is intended to “prohibit  
9 affordable housing impact fees, including inclusionary zoning fees, in-lieu fees, and public  
10 benefit fees, from being imposed on a housing development’s [State] density bonus units,”  
11 according to the author’s bill language, on file with the Clerk of the Board of Supervisor in File  
12 No. 220246 which is hereby declared to be a part of this Resolution as if set forth fully herein;  
13 and

14 WHEREAS, AB 2063’s prescription that “By imposing new restrictions on the ability of  
15 a local government to impose affordable housing impact fees, the bill would impose a state-  
16 mandated local program,” would have the debilitating effect of revoking the City and County of  
17 San Francisco’s ability to continue collecting fees to build affordable housing relative to the  
18 extra market-rate housing “bonus” units granted to a housing development under the State  
19 Density Bonus Law; and

20 WHEREAS, Some local jurisdictions in California, because of local market conditions,  
21 depend on granting significant development incentives in order to produce affordable units  
22 within private housing development; and

23 WHEREAS, San Francisco, because of its unique local market conditions, has  
24 repeatedly demonstrated that private development can and will bear higher affordability  
25 requirements; and

1           WHEREAS, San Francisco voters have consistently expressed through their votes a  
2           desire for robust affordable housing programs that prioritize the needs of the City’s most  
3           vulnerable residents; and

4           WHEREAS, In June 2016, the voters of San Francisco overwhelmingly adopted  
5           Proposition C which modernized and strengthened the City’s “Inclusionary Housing” policy,  
6           including ensuring that market-rate housing projects availing themselves of State Density  
7           Bonus Law “bonus units” would still provide equivalent affordable housing contributions to the  
8           City; and

9           WHEREAS, AB 2063’s proposed state preemption from considered and equitable local  
10          policies and established development standards handcuffs local jurisdictions, including San  
11          Francisco, from determining how to apply affordable housing requirements in the context of  
12          local market conditions; and

13          WHEREAS, San Francisco has one of the highest median rents in the United States  
14          with the average rent for a two-bedroom listing at \$3,570 according to the San Francisco  
15          Planning Department’s 2020 Housing Inventory based on data from Zumper.com and  
16          Priceconomics; and

17          WHEREAS, San Francisco also comprises one of the highest-priced home ownership  
18          markets in the United States with a median home sales price of \$1.581 million, a 9% increase  
19          from the previous year according to the San Francisco Planning Department’s 2020 Housing  
20          Inventory based on data from the California Association of Realtors; and

21          WHEREAS, The Mayor’s Office of Housing and Community Development (“MOHCD”)  
22          continues to see a widening affordability gap and significant under-production of affordable  
23          homes to meet its Regional Housing Needs Allocation (RHNA) obligations for extremely-low,  
24          low and middle-income households in both the rental and homeownership markets; and

25

1           WHEREAS, The housing affordability gap has the greatest impact on extremely-low  
2 and low-income households, such as seniors, persons with disabilities, low-income working  
3 families and veterans, and inhibits San Francisco from ensuring that economic diversity is  
4 maintained; and

5           WHEREAS, Limited state and federal resources and the high cost of housing  
6 development put a greater burden on local government to contribute its own limited resources,  
7 and consequently the City's supply of affordable housing has not kept pace with demand; and

8           WHEREAS, The State Density Bonus Law preemptions proposed by AB 2063, if  
9 applied to the existing Inclusionary affordable housing requirements on market-rate housing  
10 development in San Francisco, would result in a very significant reduction of affordable units;  
11 and

12           WHEREAS, The Board of Supervisors has historically and consistently adopted  
13 Resolutions, as a matter of City policy, opposing unless amended State Bills that would  
14 preempt San Francisco's local authority to maximize recapture of land value for public benefit,  
15 weaken San Francisco's voter-supported Inclusionary Housing policy, and restrict the City's  
16 ability to build affordable housing at a range of income levels; and

17           WHEREAS, The failure to build sufficient affordable housing in San Francisco to meet  
18 the needs of low- and moderate-income essential workers, including educators, healthcare  
19 workers, service providers, hotel and hospitality staff, trades workers, commercial drivers and  
20 many others, results in long commutes, road congestion, and environmental harm as people  
21 seek affordable housing at ever-greater distances from where they work; now, therefore, be it

22           RESOLVED, That San Francisco is committed to continuing to utilize all affordable  
23 housing policy tools to achieve local housing balance goals for all income levels in  
24 accordance with its Regional Housing Needs Allocation obligations; and, be it

25

1           FURTHER RESOLVED, That the Board of Supervisors of the City and County of San  
2           Francisco opposes AB 2063 unless amended to allow San Francisco to continue applying  
3           affordable housing fees to market rate “bonus” units granted under the State Density Bonus  
4           Law to mitigate the cuts to its local Inclusionary Housing policy imposed by the State Density  
5           Bonus; and, be it

6  
7           FURTHER RESOLVED, That the Board of Supervisors of the City and County of San  
8           Francisco does hereby urge the San Francisco Legislative Delegation to oppose AB 2063, as  
9           it would eliminate a critical San Francisco affordable housing tool; and, be it

10          FURTHER RESOLVED, That the Board of Supervisors of the City and County of San  
11          Francisco will continue to collaborate with its State Legislative Delegation to consider ways to  
12          make the State Density Bonus law more equitable in dense urban environments like San  
13          Francisco which have proudly championed strong existing local affordable housing policies;  
14          and, be it

15          FURTHER RESOLVED, That the Board of Supervisors of the City and County of San  
16          Francisco directs the Clerk of the Board to transmit copies of this Resolution to the California  
17          State Legislature and the City Lobbyist upon passage.

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**ASSEMBLY BILL**

**No. 2063**

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**Introduced by Assembly Member Berman**

February 14, 2022

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An act to amend Section 65915 of the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 2063, as introduced, Berman. Density bonuses: affordable housing impact fees.

Existing law, known as the Density Bonus Law, requires a city or county to provide a developer that proposes a housing development in the city or county with a density bonus and other incentives or concessions for the production of lower income housing units, or for the donation of land within the development, if the developer agrees to, among other things, construct a specified percentage of units for very low income, low-income, or moderate-income households or qualifying residents, including lower income students. Existing law requires the amount of a density bonus and the number of incentives or concessions a qualifying developer receives to be pursuant to a certain formula based on the total number of units in the housing development, as specified. Existing law prohibits affordable housing impact fees, including inclusionary zoning fees and in-lieu fees, from being imposed on a housing development's affordable units.

This bill would prohibit affordable housing impact fees, including inclusionary zoning fees, in-lieu fees, and public benefit fees, from being imposed on a housing development's density bonus units. By imposing new restrictions on the ability of a local government to impose

affordable housing impact fees, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 65915 of the Government Code is  
2 amended to read:

3 65915. (a) (1) When an applicant seeks a density bonus for  
4 a housing development within, or for the donation of land for  
5 housing within, the jurisdiction of a city, county, or city and county,  
6 that local government shall comply with this section. A city,  
7 county, or city and county shall adopt an ordinance that specifies  
8 how compliance with this section will be implemented. Except as  
9 otherwise provided in subdivision (s), failure to adopt an ordinance  
10 shall not relieve a city, county, or city and county from complying  
11 with this section.

12 (2) A local government shall not condition the submission,  
13 review, or approval of an application pursuant to this chapter on  
14 the preparation of an additional report or study that is not otherwise  
15 required by state law, including this section. This subdivision does  
16 not prohibit a local government from requiring an applicant to  
17 provide reasonable documentation to establish eligibility for a  
18 requested density bonus, incentives or concessions, as described  
19 in subdivision (d), waivers or reductions of development standards,  
20 as described in subdivision (e), and parking ratios, as described in  
21 subdivision (p).

22 (3) In order to provide for the expeditious processing of a density  
23 bonus application, the local government shall do all of the  
24 following:

25 (A) Adopt procedures and timelines for processing a density  
26 bonus application.

27 (B) Provide a list of all documents and information required to  
28 be submitted with the density bonus application in order for the

1 density bonus application to be deemed complete. This list shall  
2 be consistent with this chapter.

3 (C) Notify the applicant for a density bonus whether the  
4 application is complete in a manner consistent with the timelines  
5 specified in Section 65943.

6 (D) (i) If the local government notifies the applicant that the  
7 application is deemed complete pursuant to subparagraph (C),  
8 provide the applicant with a determination as to the following  
9 matters:

10 (I) The amount of density bonus, calculated pursuant to  
11 subdivision (f), for which the applicant is eligible.

12 (II) If the applicant requests a parking ratio pursuant to  
13 subdivision (p), the parking ratio for which the applicant is eligible.

14 (III) If the applicant requests incentives or concessions pursuant  
15 to subdivision (d) or waivers or reductions of development  
16 standards pursuant to subdivision (e), whether the applicant has  
17 provided adequate information for the local government to make  
18 a determination as to those incentives, concessions, or waivers or  
19 reductions of development standards.

20 (ii) Any determination required by this subparagraph shall be  
21 based on the development project at the time the application is  
22 deemed complete. The local government shall adjust the amount  
23 of density bonus and parking ratios awarded pursuant to this section  
24 based on any changes to the project during the course of  
25 development.

26 (b) (1) A city, county, or city and county shall grant one density  
27 bonus, the amount of which shall be as specified in subdivision  
28 (f), and, if requested by the applicant and consistent with the  
29 applicable requirements of this section, incentives or concessions,  
30 as described in subdivision (d), waivers or reductions of  
31 development standards, as described in subdivision (e), and parking  
32 ratios, as described in subdivision (p), if an applicant for a housing  
33 development seeks and agrees to construct a housing development,  
34 excluding any units permitted by the density bonus awarded  
35 pursuant to this section, that will contain at least any one of the  
36 following:

37 (A) Ten percent of the total units of a housing development for  
38 rental or sale to lower income households, as defined in Section  
39 50079.5 of the Health and Safety Code.



1 (B) Five percent of the total units of a housing development for  
2 rental or sale to very low income households, as defined in Section  
3 50105 of the Health and Safety Code.

4 (C) A senior citizen housing development, as defined in Sections  
5 51.3 and 51.12 of the Civil Code, or a mobilehome park that limits  
6 residency based on age requirements for housing for older persons  
7 pursuant to Section 798.76 or 799.5 of the Civil Code.

8 (D) Ten percent of the total dwelling units of a housing  
9 development are sold to persons and families of moderate income,  
10 as defined in Section 50093 of the Health and Safety Code,  
11 provided that all units in the development are offered to the public  
12 for purchase.

13 (E) Ten percent of the total units of a housing development for  
14 transitional foster youth, as defined in Section 66025.9 of the  
15 Education Code, disabled veterans, as defined in Section 18541,  
16 or homeless persons, as defined in the federal McKinney-Vento  
17 Homeless Assistance Act (42 U.S.C. Sec. 11301 et seq.). The units  
18 described in this subparagraph shall be subject to a recorded  
19 affordability restriction of 55 years and shall be provided at the  
20 same affordability level as very low income units.

21 (F) (i) Twenty percent of the total units for lower income  
22 students in a student housing development that meets the following  
23 requirements:

24 (I) All units in the student housing development will be used  
25 exclusively for undergraduate, graduate, or professional students  
26 enrolled full time at an institution of higher education accredited  
27 by the Western Association of Schools and Colleges or the  
28 Accrediting Commission for Community and Junior Colleges. In  
29 order to be eligible under this subclause, the developer shall, as a  
30 condition of receiving a certificate of occupancy, provide evidence  
31 to the city, county, or city and county that the developer has entered  
32 into an operating agreement or master lease with one or more  
33 institutions of higher education for the institution or institutions  
34 to occupy all units of the student housing development with  
35 students from that institution or institutions. An operating  
36 agreement or master lease entered into pursuant to this subclause  
37 is not violated or breached if, in any subsequent year, there are not  
38 sufficient students enrolled in an institution of higher education  
39 to fill all units in the student housing development.

1 (II) The applicable 20-percent units will be used for lower  
2 income students.

3 (III) The rent provided in the applicable units of the development  
4 for lower income students shall be calculated at 30 percent of 65  
5 percent of the area median income for a single-room occupancy  
6 unit type.

7 (IV) The development will provide priority for the applicable  
8 affordable units for lower income students experiencing  
9 homelessness. A homeless service provider, as defined in paragraph  
10 (3) of subdivision (e) of Section 103577 of the Health and Safety  
11 Code, or institution of higher education that has knowledge of a  
12 person's homeless status may verify a person's status as homeless  
13 for purposes of this subclause.

14 (ii) For purposes of calculating a density bonus granted pursuant  
15 to this subparagraph, the term "unit" as used in this section means  
16 one rental bed and its pro rata share of associated common area  
17 facilities. The units described in this subparagraph shall be subject  
18 to a recorded affordability restriction of 55 years.

19 (G) One hundred percent of all units in the development,  
20 including total units and density bonus units, but exclusive of a  
21 manager's unit or units, are for lower income households, as  
22 defined by Section 50079.5 of the Health and Safety Code, except  
23 that up to 20 percent of the units in the development, including  
24 total units and density bonus units, may be for moderate-income  
25 households, as defined in Section 50053 of the Health and Safety  
26 Code.

27 (2) For purposes of calculating the amount of the density bonus  
28 pursuant to subdivision (f), an applicant who requests a density  
29 bonus pursuant to this subdivision shall elect whether the bonus  
30 shall be awarded on the basis of subparagraph (A), (B), (C), (D),  
31 (E), (F), or (G) of paragraph (1).

32 (c) (1) (A) An applicant shall agree to, and the city, county,  
33 or city and county shall ensure, the continued affordability of all  
34 very low and low-income rental units that qualified the applicant  
35 for the award of the density bonus for 55 years or a longer period  
36 of time if required by the construction or mortgage financing  
37 assistance program, mortgage insurance program, or rental subsidy  
38 program.

1 (B) (i) Except as otherwise provided in clause (ii), rents for the  
2 lower income density bonus units shall be set at an affordable rent,  
3 as defined in Section 50053 of the Health and Safety Code.

4 (ii) For housing developments meeting the criteria of  
5 subparagraph (G) of paragraph (1) of subdivision (b), rents for all  
6 units in the development, including both base density and density  
7 bonus units, shall be as follows:

8 (I) The rent for at least 20 percent of the units in the  
9 development shall be set at an affordable rent, as defined in Section  
10 50053 of the Health and Safety Code.

11 (II) The rent for the remaining units in the development shall  
12 be set at an amount consistent with the maximum rent levels for  
13 a housing development that receives an allocation of state or federal  
14 low-income housing tax credits from the California Tax Credit  
15 Allocation Committee.

16 (2) (A) An applicant shall agree to ensure, and the city, county,  
17 or city and county shall ensure, that a for-sale unit that qualified  
18 the applicant for the award of the density bonus meets either of  
19 the following conditions:

20 (i) The unit is initially occupied by a person or family of very  
21 low, low, or moderate income, as required, and it is offered at an  
22 affordable housing cost, as that cost is defined in Section 50052.5  
23 of the Health and Safety Code and is subject to an equity sharing  
24 agreement.

25 (ii) The unit is purchased by a qualified nonprofit housing  
26 corporation pursuant to a recorded contract that satisfies all of the  
27 requirements specified in paragraph (10) of subdivision (a) of  
28 Section 402.1 of the Revenue and Taxation Code and that includes  
29 all of the following:

30 (I) A repurchase option that requires a subsequent purchaser of  
31 the property that desires to resell or convey the property to offer  
32 the qualified nonprofit corporation the right to repurchase the  
33 property prior to selling or conveying that property to any other  
34 purchaser.

35 (II) An equity sharing agreement.

36 (III) Affordability restrictions on the sale and conveyance of  
37 the property that ensure that the property will be preserved for  
38 lower income housing for at least 45 years for owner-occupied  
39 housing units and will be sold or resold only to persons or families

1 of very low, low, or moderate income, as defined in Section  
2 50052.5 of the Health and Safety Code.

3 (B) For purposes of this paragraph, a “qualified nonprofit  
4 housing corporation” is a nonprofit housing corporation organized  
5 pursuant to Section 501(c)(3) of the Internal Revenue Code that  
6 has received a welfare exemption under Section 214.15 of the  
7 Revenue and Taxation Code for properties intended to be sold to  
8 low-income families who participate in a special no-interest loan  
9 program.

10 (2) An applicant shall agree to, and the city, county, or city and  
11 county shall ensure that, the initial occupant of all for-sale units  
12 that qualified the applicant for the award of the density bonus are  
13 persons and families of very low, low, or moderate income, as  
14 required, and that the units are offered at an affordable housing  
15 cost, as that cost is defined in Section 50052.5 of the Health and  
16 Safety Code.

17 (C) The local government shall enforce an equity sharing  
18 agreement required pursuant to clause (i) or (ii) of subparagraph  
19 (A), unless it is in conflict with the requirements of another public  
20 funding source or law. The following apply to the equity sharing  
21 agreement:

22 (i) Upon resale, the seller of the unit shall retain the value of  
23 any improvements, the downpayment, and the seller’s proportionate  
24 share of appreciation.

25 (ii) Except as provided in clause (v), the local government shall  
26 recapture any initial subsidy, as defined in clause (iii), and its  
27 proportionate share of appreciation, as defined in clause (iv), which  
28 amount shall be used within five years for any of the purposes  
29 described in subdivision (e) of Section 33334.2 of the Health and  
30 Safety Code that promote home ownership.

31 (iii) For purposes of this subdivision, the local government’s  
32 initial subsidy shall be equal to the fair market value of the home  
33 at the time of initial sale minus the initial sale price to the  
34 moderate-income household, plus the amount of any downpayment  
35 assistance or mortgage assistance. If upon resale the market value  
36 is lower than the initial market value, then the value at the time of  
37 the resale shall be used as the initial market value.

38 (iv) For purposes of this subdivision, the local government’s  
39 proportionate share of appreciation shall be equal to the ratio of

1 the local government’s initial subsidy to the fair market value of  
2 the home at the time of initial sale.

3 (v) If the unit is purchased or developed by a qualified nonprofit  
4 housing corporation pursuant to clause (ii) of subparagraph (A)  
5 the local government may enter into a contract with the qualified  
6 nonprofit housing corporation under which the qualified nonprofit  
7 housing corporation would recapture any initial subsidy and its  
8 proportionate share of appreciation if the qualified nonprofit  
9 housing corporation is required to use 100 percent of the proceeds  
10 to promote homeownership for lower income households as defined  
11 by Health and Safety Code Section 50079.5 within the jurisdiction  
12 of the local government.

13 (3) (A) An applicant shall be ineligible for a density bonus or  
14 any other incentives or concessions under this section if the housing  
15 development is proposed on any property that includes a parcel or  
16 parcels on which rental dwelling units are or, if the dwelling units  
17 have been vacated or demolished in the five-year period preceding  
18 the application, have been subject to a recorded covenant,  
19 ordinance, or law that restricts rents to levels affordable to persons  
20 and families of lower or very low income; subject to any other  
21 form of rent or price control through a public entity’s valid exercise  
22 of its police power; or occupied by lower or very low income  
23 households, unless the proposed housing development replaces  
24 those units, and either of the following applies:

25 (i) The proposed housing development, inclusive of the units  
26 replaced pursuant to this paragraph, contains affordable units at  
27 the percentages set forth in subdivision (b).

28 (ii) Each unit in the development, exclusive of a manager’s unit  
29 or units, is affordable to, and occupied by, either a lower or very  
30 low income household.

31 (B) For the purposes of this paragraph, “replace” shall mean  
32 either of the following:

33 (i) If any dwelling units described in subparagraph (A) are  
34 occupied on the date of application, the proposed housing  
35 development shall provide at least the same number of units of  
36 equivalent size to be made available at affordable rent or affordable  
37 housing cost to, and occupied by, persons and families in the same  
38 or lower income category as those households in occupancy. If  
39 the income category of the household in occupancy is not known,  
40 it shall be rebuttably presumed that lower income renter households

1 occupied these units in the same proportion of lower income renter  
2 households to all renter households within the jurisdiction, as  
3 determined by the most recently available data from the United  
4 States Department of Housing and Urban Development's  
5 Comprehensive Housing Affordability Strategy database. For  
6 unoccupied dwelling units described in subparagraph (A) in a  
7 development with occupied units, the proposed housing  
8 development shall provide units of equivalent size to be made  
9 available at affordable rent or affordable housing cost to, and  
10 occupied by, persons and families in the same or lower income  
11 category as the last household in occupancy. If the income category  
12 of the last household in occupancy is not known, it shall be  
13 rebuttably presumed that lower income renter households occupied  
14 these units in the same proportion of lower income renter  
15 households to all renter households within the jurisdiction, as  
16 determined by the most recently available data from the United  
17 States Department of Housing and Urban Development's  
18 Comprehensive Housing Affordability Strategy database. All  
19 replacement calculations resulting in fractional units shall be  
20 rounded up to the next whole number. If the replacement units will  
21 be rental dwelling units, these units shall be subject to a recorded  
22 affordability restriction for at least 55 years. If the proposed  
23 development is for-sale units, the units replaced shall be subject  
24 to paragraph (2).

25 (ii) If all dwelling units described in subparagraph (A) have  
26 been vacated or demolished within the five-year period preceding  
27 the application, the proposed housing development shall provide  
28 at least the same number of units of equivalent size as existed at  
29 the highpoint of those units in the five-year period preceding the  
30 application to be made available at affordable rent or affordable  
31 housing cost to, and occupied by, persons and families in the same  
32 or lower income category as those persons and families in  
33 occupancy at that time, if known. If the incomes of the persons  
34 and families in occupancy at the highpoint is not known, it shall  
35 be rebuttably presumed that low-income and very low income  
36 renter households occupied these units in the same proportion of  
37 low-income and very low income renter households to all renter  
38 households within the jurisdiction, as determined by the most  
39 recently available data from the United States Department of  
40 Housing and Urban Development's Comprehensive Housing

1 Affordability Strategy database. All replacement calculations  
2 resulting in fractional units shall be rounded up to the next whole  
3 number. If the replacement units will be rental dwelling units,  
4 these units shall be subject to a recorded affordability restriction  
5 for at least 55 years. If the proposed development is for-sale units,  
6 the units replaced shall be subject to paragraph (2).

7 (C) Notwithstanding subparagraph (B), for any dwelling unit  
8 described in subparagraph (A) that is or was, within the five-year  
9 period preceding the application, subject to a form of rent or price  
10 control through a local government’s valid exercise of its police  
11 power and that is or was occupied by persons or families above  
12 lower income, the city, county, or city and county may do either  
13 of the following:

14 (i) Require that the replacement units be made available at  
15 affordable rent or affordable housing cost to, and occupied by,  
16 low-income persons or families. If the replacement units will be  
17 rental dwelling units, these units shall be subject to a recorded  
18 affordability restriction for at least 55 years. If the proposed  
19 development is for-sale units, the units replaced shall be subject  
20 to paragraph (2).

21 (ii) Require that the units be replaced in compliance with the  
22 jurisdiction’s rent or price control ordinance, provided that each  
23 unit described in subparagraph (A) is replaced. Unless otherwise  
24 required by the jurisdiction’s rent or price control ordinance, these  
25 units shall not be subject to a recorded affordability restriction.

26 (D) For purposes of this paragraph, “equivalent size” means  
27 that the replacement units contain at least the same total number  
28 of bedrooms as the units being replaced.

29 (E) Subparagraph (A) does not apply to an applicant seeking a  
30 density bonus for a proposed housing development if the  
31 applicant’s application was submitted to, or processed by, a city,  
32 county, or city and county before January 1, 2015.

33 (d) (1) An applicant for a density bonus pursuant to subdivision  
34 (b) may submit to a city, county, or city and county a proposal for  
35 the specific incentives or concessions that the applicant requests  
36 pursuant to this section, and may request a meeting with the city,  
37 county, or city and county. The city, county, or city and county  
38 shall grant the concession or incentive requested by the applicant  
39 unless the city, county, or city and county makes a written finding,  
40 based upon substantial evidence, of any of the following:

1 (A) The concession or incentive does not result in identifiable  
2 and actual cost reductions, consistent with subdivision (k), to  
3 provide for affordable housing costs, as defined in Section 50052.5  
4 of the Health and Safety Code, or for rents for the targeted units  
5 to be set as specified in subdivision (c).

6 (B) The concession or incentive would have a specific, adverse  
7 impact, as defined in paragraph (2) of subdivision (d) of Section  
8 65589.5, upon public health and safety or on any real property that  
9 is listed in the California Register of Historical Resources and for  
10 which there is no feasible method to satisfactorily mitigate or avoid  
11 the specific, adverse impact without rendering the development  
12 unaffordable to low-income and moderate-income households.

13 (C) The concession or incentive would be contrary to state or  
14 federal law.

15 (2) The applicant shall receive the following number of  
16 incentives or concessions:

17 (A) One incentive or concession for projects that include at least  
18 10 percent of the total units for lower income households, at least  
19 5 percent for very low income households, or at least 10 percent  
20 for persons and families of moderate income in a development in  
21 which the units are for sale.

22 (B) Two incentives or concessions for projects that include at  
23 least 17 percent of the total units for lower income households, at  
24 least 10 percent for very low income households, or at least 20  
25 percent for persons and families of moderate income in a  
26 development in which the units are for sale.

27 (C) Three incentives or concessions for projects that include at  
28 least 24 percent of the total units for lower income households, at  
29 least 15 percent for very low income households, or at least 30  
30 percent for persons and families of moderate income in a  
31 development in which the units are for sale.

32 (D) Four incentives or concessions for a project meeting the  
33 criteria of subparagraph (G) of paragraph (1) of subdivision (b).  
34 If the project is located within one-half mile of a major transit stop,  
35 the applicant shall also receive a height increase of up to three  
36 additional stories, or 33 feet.

37 (E) One incentive or concession for projects that include at least  
38 20 percent of the total units for lower income students in a student  
39 housing development.



1 (3) The applicant may initiate judicial proceedings if the city,  
2 county, or city and county refuses to grant a requested density  
3 bonus, incentive, or concession. If a court finds that the refusal to  
4 grant a requested density bonus, incentive, or concession is in  
5 violation of this section, the court shall award the plaintiff  
6 reasonable attorney's fees and costs of suit. This subdivision shall  
7 not be interpreted to require a local government to grant an  
8 incentive or concession that has a specific, adverse impact, as  
9 defined in paragraph (2) of subdivision (d) of Section 65589.5,  
10 upon health or safety, and for which there is no feasible method  
11 to satisfactorily mitigate or avoid the specific adverse impact. This  
12 subdivision shall not be interpreted to require a local government  
13 to grant an incentive or concession that would have an adverse  
14 impact on any real property that is listed in the California Register  
15 of Historical Resources. The city, county, or city and county shall  
16 establish procedures for carrying out this section that shall include  
17 legislative body approval of the means of compliance with this  
18 section.

19 (4) The city, county, or city and county shall bear the burden  
20 of proof for the denial of a requested concession or incentive.

21 (e) (1) In no case may a city, county, or city and county apply  
22 any development standard that will have the effect of physically  
23 precluding the construction of a development meeting the criteria  
24 of subdivision (b) at the densities or with the concessions or  
25 incentives permitted by this section. Subject to paragraph (3), an  
26 applicant may submit to a city, county, or city and county a  
27 proposal for the waiver or reduction of development standards that  
28 will have the effect of physically precluding the construction of a  
29 development meeting the criteria of subdivision (b) at the densities  
30 or with the concessions or incentives permitted under this section,  
31 and may request a meeting with the city, county, or city and county.  
32 If a court finds that the refusal to grant a waiver or reduction of  
33 development standards is in violation of this section, the court  
34 shall award the plaintiff reasonable attorney's fees and costs of  
35 suit. This subdivision shall not be interpreted to require a local  
36 government to waive or reduce development standards if the waiver  
37 or reduction would have a specific, adverse impact, as defined in  
38 paragraph (2) of subdivision (d) of Section 65589.5, upon health  
39 or safety, and for which there is no feasible method to satisfactorily  
40 mitigate or avoid the specific adverse impact. This subdivision

1 shall not be interpreted to require a local government to waive or  
2 reduce development standards that would have an adverse impact  
3 on any real property that is listed in the California Register of  
4 Historical Resources, or to grant any waiver or reduction that would  
5 be contrary to state or federal law.

6 (2) A proposal for the waiver or reduction of development  
7 standards pursuant to this subdivision shall neither reduce nor  
8 increase the number of incentives or concessions to which the  
9 applicant is entitled pursuant to subdivision (d).

10 (3) A housing development that receives a waiver from any  
11 maximum controls on density pursuant to clause (ii) of  
12 subparagraph (D) of paragraph (3) of subdivision (f) shall only be  
13 eligible for a waiver or reduction of development standards as  
14 provided in subparagraph (D) of paragraph (2) of subdivision (d)  
15 and clause (ii) of subparagraph (D) of paragraph (3) of subdivision  
16 (f), unless the city, county, or city and county agrees to additional  
17 waivers or reductions of development standards.

18 (f) For the purposes of this chapter, “density bonus” means a  
19 density increase over the otherwise maximum allowable gross  
20 residential density as of the date of application by the applicant to  
21 the city, county, or city and county, or, if elected by the applicant,  
22 a lesser percentage of density increase, including, but not limited  
23 to, no increase in density. The amount of density increase to which  
24 the applicant is entitled shall vary according to the amount by  
25 which the percentage of affordable housing units exceeds the  
26 percentage established in subdivision (b).

27 (1) For housing developments meeting the criteria of  
28 subparagraph (A) of paragraph (1) of subdivision (b), the density  
29 bonus shall be calculated as follows:

	Percentage Low-Income Units	Percentage Density Bonus
30		
31		
32		
33	10	20
34	11	21.5
35	12	23
36	13	24.5
37	14	26
38	15	27.5
39	16	29
40	17	30.5

1	18	32
2	19	33.5
3	20	35
4	21	38.75
5	22	42.5
6	23	46.25
7	24	50

8  
9  
10  
11  
12  
13  
14  
15  
16  
17

18 (2) For housing developments meeting the criteria of  
19 subparagraph (B) of paragraph (1) of subdivision (b), the density  
20 bonus shall be calculated as follows:

21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40

Percentage Very Low 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

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
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40

(3) (A) For housing developments meeting the criteria of subparagraph (C) of paragraph (1) of subdivision (b), the density bonus shall be 20 percent of the number of senior housing units.

(B) For housing developments meeting the criteria of subparagraph (E) of paragraph (1) of subdivision (b), the density bonus shall be 20 percent of the number of the type of units giving rise to a density bonus under that subparagraph.

(C) For housing developments meeting the criteria of subparagraph (F) of paragraph (1) of subdivision (b), the density bonus shall be 35 percent of the student housing units.

(D) For housing developments meeting the criteria of subparagraph (G) of paragraph (1) of subdivision (b), the following shall apply:

(i) Except as otherwise provided in clause (ii), the density bonus shall be 80 percent of the number of units for lower income households.

(ii) If the housing development is located within one-half mile of a major transit stop, the city, county, or city and county shall not impose any maximum controls on density.

(4) For housing developments meeting the criteria of subparagraph (D) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Moderate-Income Units	Percentage Density Bonus
10	5
11	6
12	7
13	8
14	9
15	10
16	11
17	12
18	13
19	14

1	20	15
2	21	16
3	22	17
4	23	18
5	24	19
6	25	20
7	26	21
8	27	22
9	28	23
10	29	24
11	30	25
12	31	26
13	32	27
14	33	28
15	34	29
16	35	30
17	36	31
18	37	32
19	38	33
20	39	34
21	40	35
22	41	38.75
23	42	42.5
24	43	46.25
25	44	50

27 (5) All density calculations resulting in fractional units shall be  
 28 rounded up to the next whole number. The granting of a density  
 29 bonus shall not require, or be interpreted, in and of itself, to require  
 30 a general plan amendment, local coastal plan amendment, zoning  
 31 change, or other discretionary approval.

32 (6) *Affordable housing impact fees, including inclusionary*  
 33 *zoning fees, in-lieu fees, and public benefit fees, shall not be*  
 34 *imposed on a housing development’s density bonus units.*

35 (g) (1) When an applicant for a tentative subdivision map,  
 36 parcel map, or other residential development approval donates  
 37 land to a city, county, or city and county in accordance with this  
 38 subdivision, the applicant shall be entitled to a 15-percent increase  
 39 above the otherwise maximum allowable residential density for  
 40 the entire development, as follows:

	Percentage Very Low Income	Percentage Density Bonus
1		
2	10	15
3	11	16
4	12	17
5	13	18
6	14	19
7	15	20
8	16	21
9	17	22
10	18	23
11	19	24
12	20	25
13	21	26
14	22	27
15	23	28
16	24	29
17	25	30
18	26	31
19	27	32
20	28	33
21	29	34
22	30	35

23  
24 (2) This increase shall be in addition to any increase in density  
25 mandated by subdivision (b), up to a maximum combined mandated  
26 density increase of 35 percent if an applicant seeks an increase  
27 pursuant to both this subdivision and subdivision (b). All density  
28 calculations resulting in fractional units shall be rounded up to the  
29 next whole number. Nothing in this subdivision shall be construed  
30 to enlarge or diminish the authority of a city, county, or city and  
31 county to require a developer to donate land as a condition of  
32 development. An applicant shall be eligible for the increased  
33 density bonus described in this subdivision if all of the following  
34 conditions are met:

35 (A) The applicant donates and transfers the land no later than  
36 the date of approval of the final subdivision map, parcel map, or  
37 residential development application.

38 (B) The developable acreage and zoning classification of the  
39 land being transferred are sufficient to permit construction of units  
40 affordable to very low income households in an amount not less

1 than 10 percent of the number of residential units of the proposed  
2 development.

3 (C) The transferred land is at least one acre in size or of  
4 sufficient size to permit development of at least 40 units, has the  
5 appropriate general plan designation, is appropriately zoned with  
6 appropriate development standards for development at the density  
7 described in paragraph (3) of subdivision (c) of Section 65583.2,  
8 and is or will be served by adequate public facilities and  
9 infrastructure.

10 (D) The transferred land shall have all of the permits and  
11 approvals, other than building permits, necessary for the  
12 development of the very low income housing units on the  
13 transferred land, not later than the date of approval of the final  
14 subdivision map, parcel map, or residential development  
15 application, except that the local government may subject the  
16 proposed development to subsequent design review to the extent  
17 authorized by subdivision (i) of Section 65583.2 if the design is  
18 not reviewed by the local government before the time of transfer.

19 (E) The transferred land and the affordable units shall be subject  
20 to a deed restriction ensuring continued affordability of the units  
21 consistent with paragraphs (1) and (2) of subdivision (c), which  
22 shall be recorded on the property at the time of the transfer.

23 (F) The land is transferred to the local agency or to a housing  
24 developer approved by the local agency. The local agency may  
25 require the applicant to identify and transfer the land to the  
26 developer.

27 (G) The transferred land shall be within the boundary of the  
28 proposed development or, if the local agency agrees, within  
29 one-quarter mile of the boundary of the proposed development.

30 (H) A proposed source of funding for the very low income units  
31 shall be identified not later than the date of approval of the final  
32 subdivision map, parcel map, or residential development  
33 application.

34 (h) (1) When an applicant proposes to construct a housing  
35 development that conforms to the requirements of subdivision (b)  
36 and includes a childcare facility that will be located on the premises  
37 of, as part of, or adjacent to, the project, the city, county, or city  
38 and county shall grant either of the following:

1 (A) An additional density bonus that is an amount of square  
2 feet of residential space that is equal to or greater than the amount  
3 of square feet in the childcare facility.

4 (B) An additional concession or incentive that contributes  
5 significantly to the economic feasibility of the construction of the  
6 childcare facility.

7 (2) The city, county, or city and county shall require, as a  
8 condition of approving the housing development, that the following  
9 occur:

10 (A) The childcare facility shall remain in operation for a period  
11 of time that is as long as or longer than the period of time during  
12 which the density bonus units are required to remain affordable  
13 pursuant to subdivision (c).

14 (B) Of the children who attend the childcare facility, the children  
15 of very low income households, lower income households, or  
16 families of moderate income shall equal a percentage that is equal  
17 to or greater than the percentage of dwelling units that are required  
18 for very low income households, lower income households, or  
19 families of moderate income pursuant to subdivision (b).

20 (3) Notwithstanding any requirement of this subdivision, a city,  
21 county, or city and county shall not be required to provide a density  
22 bonus or concession for a childcare facility if it finds, based upon  
23 substantial evidence, that the community has adequate childcare  
24 facilities.

25 (4) “Childcare facility,” as used in this section, means a child  
26 daycare facility other than a family daycare home, including, but  
27 not limited to, infant centers, preschools, extended daycare  
28 facilities, and schoolage childcare centers.

29 (i) “Housing development,” as used in this section, means a  
30 development project for five or more residential units, including  
31 mixed-use developments. For the purposes of this section, “housing  
32 development” also includes a subdivision or common interest  
33 development, as defined in Section 4100 of the Civil Code,  
34 approved by a city, county, or city and county and consists of  
35 residential units or unimproved residential lots and either a project  
36 to substantially rehabilitate and convert an existing commercial  
37 building to residential use or the substantial rehabilitation of an  
38 existing multifamily dwelling, as defined in subdivision (d) of  
39 Section 65863.4, where the result of the rehabilitation would be a  
40 net increase in available residential units. For the purpose of



1 calculating a density bonus, the residential units shall be on  
2 contiguous sites that are the subject of one development  
3 application, but do not have to be based upon individual  
4 subdivision maps or parcels. The density bonus shall be permitted  
5 in geographic areas of the housing development other than the  
6 areas where the units for the lower income households are located.

7 (j) (1) The granting of a concession or incentive shall not require  
8 or be interpreted, in and of itself, to require a general plan  
9 amendment, local coastal plan amendment, zoning change, study,  
10 or other discretionary approval. For purposes of this subdivision,  
11 “study” does not include reasonable documentation to establish  
12 eligibility for the concession or incentive or to demonstrate that  
13 the incentive or concession meets the definition set forth in  
14 subdivision (k). This provision is declaratory of existing law.

15 (2) Except as provided in subdivisions (d) and (e), the granting  
16 of a density bonus shall not require or be interpreted to require the  
17 waiver of a local ordinance or provisions of a local ordinance  
18 unrelated to development standards.

19 (k) For the purposes of this chapter, concession or incentive  
20 means any of the following:

21 (1) A reduction in site development standards or a modification  
22 of zoning code requirements or architectural design requirements  
23 that exceed the minimum building standards approved by the  
24 California Building Standards Commission as provided in Part 2.5  
25 (commencing with Section 18901) of Division 13 of the Health  
26 and Safety Code, including, but not limited to, a reduction in  
27 setback and square footage requirements and in the ratio of  
28 vehicular parking spaces that would otherwise be required that  
29 results in identifiable and actual cost reductions, to provide for  
30 affordable housing costs, as defined in Section 50052.5 of the  
31 Health and Safety Code, or for rents for the targeted units to be  
32 set as specified in subdivision (c).

33 (2) Approval of mixed-use zoning in conjunction with the  
34 housing project if commercial, office, industrial, or other land uses  
35 will reduce the cost of the housing development and if the  
36 commercial, office, industrial, or other land uses are compatible  
37 with the housing project and the existing or planned development  
38 in the area where the proposed housing project will be located.

39 (3) Other regulatory incentives or concessions proposed by the  
40 developer or the city, county, or city and county that result in

1 identifiable and actual cost reductions to provide for affordable  
2 housing costs, as defined in Section 50052.5 of the Health and  
3 Safety Code, or for rents for the targeted units to be set as specified  
4 in subdivision (c).

5 (l) Subdivision (k) does not limit or require the provision of  
6 direct financial incentives for the housing development, including  
7 the provision of publicly owned land, by the city, county, or city  
8 and county, or the waiver of fees or dedication requirements.

9 (m) This section does not supersede or in any way alter or lessen  
10 the effect or application of the California Coastal Act of 1976  
11 (Division 20 (commencing with Section 30000) of the Public  
12 Resources Code). Any density bonus, concessions, incentives,  
13 waivers or reductions of development standards, and parking ratios  
14 to which the applicant is entitled under this section shall be  
15 permitted in a manner that is consistent with this section and  
16 Division 20 (commencing with Section 30000) of the Public  
17 Resources Code.

18 (n) If permitted by local ordinance, nothing in this section shall  
19 be construed to prohibit a city, county, or city and county from  
20 granting a density bonus greater than what is described in this  
21 section for a development that meets the requirements of this  
22 section or from granting a proportionately lower density bonus  
23 than what is required by this section for developments that do not  
24 meet the requirements of this section.

25 (o) For purposes of this section, the following definitions shall  
26 apply:

27 (1) "Development standard" includes a site or construction  
28 condition, including, but not limited to, a height limitation, a  
29 setback requirement, a floor area ratio, an onsite open-space  
30 requirement, or a parking ratio that applies to a residential  
31 development pursuant to any ordinance, general plan element,  
32 specific plan, charter, or other local condition, law, policy,  
33 resolution, or regulation.

34 (2) "Located within one-half mile of a major transit stop" means  
35 that any point on a proposed development, for which an applicant  
36 seeks a density bonus, other incentives or concessions, waivers or  
37 reductions of development standards, or a vehicular parking ratio  
38 pursuant to this section, is within one-half mile of any point on  
39 the property on which a major transit stop is located, including

1 any parking lot owned by the transit authority or other local agency  
 2 operating the major transit stop.

3 (3) “Lower income student” means a student who has a  
 4 household income and asset level that does not exceed the level  
 5 for Cal Grant A or Cal Grant B award recipients as set forth in  
 6 paragraph (1) of subdivision (k) of Section 69432.7 of the  
 7 Education Code. The eligibility of a student to occupy a unit for  
 8 lower income students under this section shall be verified by an  
 9 affidavit, award letter, or letter of eligibility provided by the  
 10 institution of higher education in which the student is enrolled or  
 11 by the California Student Aid Commission that the student receives  
 12 or is eligible for financial aid, including an institutional grant or  
 13 fee waiver from the college or university, the California Student  
 14 Aid Commission, or the federal government.

15 (4) “Major transit stop” has the same meaning as defined in  
 16 subdivision (b) of Section 21155 of the Public Resources Code.

17 (5) “Maximum allowable residential density” means the density  
 18 allowed under the zoning ordinance and land use element of the  
 19 general plan, or, if a range of density is permitted, means the  
 20 maximum allowable density for the specific zoning range and land  
 21 use element of the general plan applicable to the project. If the  
 22 density allowed under the zoning ordinance is inconsistent with  
 23 the density allowed under the land use element of the general plan,  
 24 the general plan density shall prevail.

25 (6) “Total units” or “total dwelling units” means a calculation  
 26 of the number of units that:

27 (A) Excludes a unit added by a density bonus awarded pursuant  
 28 to this section or any local law granting a greater density bonus.

29 (B) Includes a unit designated to satisfy an inclusionary zoning  
 30 requirement of a city, county, or city and county.

31 (p) (1) Except as provided in paragraphs (2), (3), and (4), upon  
 32 the request of the developer, a city, county, or city and county shall  
 33 not require a vehicular parking ratio, inclusive of parking for  
 34 persons with a disability and guests, of a development meeting the  
 35 criteria of subdivisions (b) and (c), that exceeds the following  
 36 ratios:

37 (A) Zero to one bedroom: one onsite parking space.

38 (B) Two to three bedrooms: one and one-half onsite parking  
 39 spaces.

40 (C) Four and more bedrooms: two and one-half parking spaces.

1 (2) (A) Notwithstanding paragraph (1), if a development  
2 includes at least 20 percent low-income units for housing  
3 developments meeting the criteria of subparagraph (A) of paragraph  
4 (1) of subdivision (b) or at least 11 percent very low income units  
5 for housing developments meeting the criteria of subparagraph  
6 (B) of paragraph (1) of subdivision (b), is located within one-half  
7 mile of a major transit stop, and there is unobstructed access to  
8 the major transit stop from the development, then, upon the request  
9 of the developer, a city, county, or city and county shall not impose  
10 a vehicular parking ratio, inclusive of parking for persons with a  
11 disability and guests, that exceeds 0.5 spaces per unit.  
12 Notwithstanding paragraph (1), if a development includes at least  
13 40 percent moderate-income units for housing developments  
14 meeting the criteria of subparagraph (D) of paragraph (1) of  
15 subdivision (b), is located within one-half mile of a major transit  
16 stop, as defined in subdivision (b) of Section 21155 of the Public  
17 Resources Code, and the residents of the development have  
18 unobstructed access to the major transit stop from the development  
19 then, upon the request of the developer, a city, county, or city and  
20 county shall not impose a vehicular parking ratio, inclusive of  
21 parking for persons with a disability and guests, that exceeds 0.5  
22 spaces per bedroom.

23 (B) For purposes of this subdivision, “unobstructed access to  
24 the major transit stop” means a resident is able to access the major  
25 transit stop without encountering natural or constructed  
26 impediments. For purposes of this subparagraph, “natural or  
27 constructed impediments” includes, but is not limited to, freeways,  
28 rivers, mountains, and bodies of water, but does not include  
29 residential structures, shopping centers, parking lots, or rails used  
30 for transit.

31 (3) Notwithstanding paragraph (1), if a development consists  
32 solely of rental units, exclusive of a manager’s unit or units, with  
33 an affordable housing cost to lower income families, as provided  
34 in Section 50052.5 of the Health and Safety Code, then, upon the  
35 request of the developer, a city, county, or city and county shall  
36 not impose vehicular parking standards if the development meets  
37 either of the following criteria:

38 (A) The development is located within one-half mile of a major  
39 transit stop and there is unobstructed access to the major transit  
40 stop from the development.

1 (B) The development is a for-rent housing development for  
2 individuals who are 62 years of age or older that complies with  
3 Sections 51.2 and 51.3 of the Civil Code and the development has  
4 either paratransit service or unobstructed access, within one-half  
5 mile, to fixed bus route service that operates at least eight times  
6 per day.

7 (4) Notwithstanding paragraphs (1) and (8), if a development  
8 consists solely of rental units, exclusive of a manager's unit or  
9 units, with an affordable housing cost to lower income families,  
10 as provided in Section 50052.5 of the Health and Safety Code, and  
11 the development is either a special needs housing development,  
12 as defined in Section 51312 of the Health and Safety Code, or a  
13 supportive housing development, as defined in Section 50675.14  
14 of the Health and Safety Code, then, upon the request of the  
15 developer, a city, county, or city and county shall not impose any  
16 minimum vehicular parking requirement. A development that is  
17 a special needs housing development shall have either paratransit  
18 service or unobstructed access, within one-half mile, to fixed bus  
19 route service that operates at least eight times per day.

20 (5) If the total number of parking spaces required for a  
21 development is other than a whole number, the number shall be  
22 rounded up to the next whole number. For purposes of this  
23 subdivision, a development may provide onsite parking through  
24 tandem parking or uncovered parking, but not through onstreet  
25 parking.

26 (6) This subdivision shall apply to a development that meets  
27 the requirements of subdivisions (b) and (c), but only at the request  
28 of the applicant. An applicant may request parking incentives or  
29 concessions beyond those provided in this subdivision pursuant  
30 to subdivision (d).

31 (7) This subdivision does not preclude a city, county, or city  
32 and county from reducing or eliminating a parking requirement  
33 for development projects of any type in any location.

34 (8) Notwithstanding paragraphs (2) and (3), if a city, county,  
35 city and county, or an independent consultant has conducted an  
36 areawide or jurisdictionwide parking study in the last seven years,  
37 then the city, county, or city and county may impose a higher  
38 vehicular parking ratio not to exceed the ratio described in  
39 paragraph (1), based upon substantial evidence found in the parking  
40 study, that includes, but is not limited to, an analysis of parking

1 availability, differing levels of transit access, walkability access  
2 to transit services, the potential for shared parking, the effect of  
3 parking requirements on the cost of market-rate and subsidized  
4 developments, and the lower rates of car ownership for low-income  
5 and very low income individuals, including seniors and special  
6 needs individuals. The city, county, or city and county shall pay  
7 the costs of any new study. The city, county, or city and county  
8 shall make findings, based on a parking study completed in  
9 conformity with this paragraph, supporting the need for the higher  
10 parking ratio.

11 (9) A request pursuant to this subdivision shall neither reduce  
12 nor increase the number of incentives or concessions to which the  
13 applicant is entitled pursuant to subdivision (d).

14 (q) Each component of any density calculation, including base  
15 density and bonus density, resulting in fractional units shall be  
16 separately rounded up to the next whole number. The Legislature  
17 finds and declares that this provision is declaratory of existing law.

18 (r) This chapter shall be interpreted liberally in favor of  
19 producing the maximum number of total housing units.

20 (s) Notwithstanding any other law, if a city, including a charter  
21 city, county, or city and county has adopted an ordinance or a  
22 housing program, or both an ordinance and a housing program,  
23 that incentivizes the development of affordable housing that allows  
24 for density bonuses that exceed the density bonuses required by  
25 the version of this section effective through December 31, 2020,  
26 that city, county, or city and county is not required to amend or  
27 otherwise update its ordinance or corresponding affordable housing  
28 incentive program to comply with the amendments made to this  
29 section by the act adding this subdivision, and is exempt from  
30 complying with the incentive and concession calculation  
31 amendments made to this section by the act adding this subdivision  
32 as set forth in subdivision (d), particularly subparagraphs (B) and  
33 (C) of paragraph (2) of that subdivision, and the amendments made  
34 to the density tables under subdivision (f).

35 (t) (1) The Legislature finds and declares that the intent behind  
36 the Density Bonus Law is to allow public entities to reduce or even  
37 eliminate subsidies for a particular project by allowing a developer  
38 to include more total units in a project than would otherwise be  
39 allowed by the local zoning ordinance in exchange for affordable  
40 units. It further reaffirms that the intent is to cover at least some

1 of the financing gap of affordable housing with regulatory  
2 incentives, rather than additional public subsidy.

3 (2) It is therefore the intent of the Legislature to make  
4 modifications to the Density Bonus Law by the act adding this  
5 subdivision to further incentivize the construction of very low,  
6 low-, and moderate-income housing units. It is further the intent  
7 of the Legislature in making these modifications to the Density  
8 Bonus Law to ensure that any additional benefits conferred upon  
9 a developer are balanced with the receipt of a public benefit in the  
10 form of adequate levels of affordable housing. The Legislature  
11 further intends that these modifications will ensure that the Density  
12 Bonus Law creates incentives for the construction of more housing  
13 across all areas of the state.

14 SEC. 2. No reimbursement is required by this act pursuant to  
15 Section 6 of Article XIII B of the California Constitution because  
16 a local agency or school district has the authority to levy service  
17 charges, fees, or assessments sufficient to pay for the program or  
18 level of service mandated by this act, within the meaning of Section  
19 17556 of the Government Code.

**From:** [Angulo, Sunny \(BOS\)](#)  
**To:** [BOS Legislation, \(BOS\)](#)  
**Cc:** [Somera, Alisa \(BOS\)](#); [Peskin, Aaron \(BOS\)](#)  
**Subject:** RE: PESKIN - Resolution - Opposing AB 2063  
**Date:** Tuesday, March 8, 2022 5:41:33 PM  
**Attachments:** [20210AB2063\\_99.pdf](#)  
[image001.png](#)

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Apologies, meant to attach the PDF of the bill earlier. Please find it here. Neither the CSAC nor the League of California Cities have taken a position on AB 2603.

And relative to Board Rule 2.1.2, this is similar in policy position and language to several other Resolutions that the Board of Supervisors has routinely adopted as a matter of city policy, as outlined in the WHEREAS clause on Page 4.

Best,  
Sunny

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**From:** BOS Legislation, (BOS) <bos.legislation@sfgov.org>  
**Sent:** Tuesday, March 8, 2022 5:32 PM  
**To:** Angulo, Sunny (BOS) <sunny.angulo@sfgov.org>; BOS Legislation, (BOS) <bos.legislation@sfgov.org>; Somera, Alisa (BOS) <alisa.somera@sfgov.org>  
**Cc:** Peskin, Aaron (BOS) <aaron.peskin@sfgov.org>; Smeallie, Kyle (BOS) <kyle.smeallie@sfgov.org>; Herrera, Ana (BOS) <ana.herrera@sfgov.org>; Gee, Natalie (BOS) <natalie.gee@sfgov.org>; Fregosi, Ian (BOS) <ian.fregosi@sfgov.org>; Lovett, Li (BOS) <li.lovett@sfgov.org>  
**Subject:** RE: PESKIN - Resolution - Opposing AB 2063

Hi Sunny,

Please provide the following documents for this Resolution:

- PDF Copy of AB 2063
- Per Board Rule 2.8.2, please confirm that organizations such as the [California State Association of Counties](#) and [League of California Cities](#) have *not* taken a position on this bill. If they have, please provide a copy of their statement for completeness of the file
- Since the attached item is requested to be placed on the For Adoption Without Committee Reference of the agenda, pursuant to Board Rule 2.1.2, please confirm that these matters are routine, not contentious in nature, and of no special interest

Thank you.

Best regards,  
**Jocelyn Wong**  
San Francisco Board of Supervisors  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102  
T: 415.554.7702 | F: 415.554.5163



[jocelyn.wong@sfgov.org](mailto:jocelyn.wong@sfgov.org) | [www.sfbos.org](http://www.sfbos.org)

**(VIRTUAL APPOINTMENTS)** To schedule a “virtual” meeting with me (on Microsoft Teams), please ask and I can answer your questions in real time.

*Due to the current COVID-19 health emergency and the Shelter in Place Order, the Office of the Clerk of the Board is working remotely while providing complete access to the legislative process and our services*



Click [here](#) to complete a Board of Supervisors Customer Service Satisfaction form

The [Legislative Research Center](#) provides 24-hour access to Board of Supervisors legislation, and archived matters since August 1998.

**Disclosures:** *Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors' website or in other public documents that members of the public may inspect or copy.*

---

**From:** Angulo, Sunny (BOS) <[sunny.angulo@sfgov.org](mailto:sunny.angulo@sfgov.org)>

**Sent:** Tuesday, March 8, 2022 5:26 PM

**To:** BOS Legislation, (BOS) <[bos.legislation@sfgov.org](mailto:bos.legislation@sfgov.org)>; Somera, Alisa (BOS) <[alisa.somera@sfgov.org](mailto:alisa.somera@sfgov.org)>

**Cc:** Peskin, Aaron (BOS) <[aaron.peskin@sfgov.org](mailto:aaron.peskin@sfgov.org)>; Smeallie, Kyle (BOS) <[kyle.smeallie@sfgov.org](mailto:kyle.smeallie@sfgov.org)>; Herrera, Ana (BOS) <[ana.herrera@sfgov.org](mailto:ana.herrera@sfgov.org)>; Gee, Natalie (BOS) <[natalie.gee@sfgov.org](mailto:natalie.gee@sfgov.org)>; Fregosi, Ian (BOS) <[ian.fregosi@sfgov.org](mailto:ian.fregosi@sfgov.org)>; Lovett, Li (BOS) <[li.lovett@sfgov.org](mailto:li.lovett@sfgov.org)>

**Subject:** PESKIN - Resolution - Opposing AB 2063

Please find Supervisor Peskin’s Resolution attached for introduction today, with copy of his four co-sponsors’ staff for confirmation.

I am also copying President Walton’s office with the request that this item appear on the next Adoption Without Reference to Committee calendar.

Thank you,  
Sunny

Print Form

# Introduction Form

By a Member of the Board of Supervisors or Mayor

Time stamp  
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor  inquiries"
- 5. City Attorney Request.
- 6. Call File No.  from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No.
- 9. Reactivate File No.
- 10. Topic submitted for Mayoral Appearance before the BOS on

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

**Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.**

Sponsor(s):

Supervisor Peskin; Chan, Mar, Ronen, Preston

Subject:

[Opposing California Assembly Bill No. 2063 (Berman) – Expanded State Density Bonus Law – Unless Amended]

The text is listed:

Resolution opposing California State Assembly Bill No. 2063, authored by Assemblymember Marc Berman, and urging the San Francisco Legislative Delegation to amend Assembly Bill No. 2063, in recognition of San Francisco's local planning and affordable tools.

Signature of Sponsoring Supervisor:

For Clerk's Use Only