

## **City of San Mateo Density Bonus/Below Market Rate Program Provisions (Effective January 1, 2022)**

State Density Bonus Law (Govt. Code 65915) has been amended several times; the most recent being effective January 1, 2022. The City's latest BMR program revisions were effective February 3, 2020. The following are points of clarification when applying the provisions of State Density Bonus (DB) Law in conjunction with San Mateo's BMR Program.

“Round Up” for all fractions in calculations on base density, density bonus units and required affordable units if developer requests any of the benefits of DB law, even if typical City practice is different (i.e. for projects not utilizing density bonus, a fractional fee is charged for .1 to .4 inclusionary units.)

Only one income category is counted for applying a density bonus, if a developer proposes a mix of affordable incomes, one of the income categories must be chosen by the developer. There is no combining or pro rating of income categories.

### BMR Trigger of Density Bonus

The City's requirements of 15% Low income units for a rental project; or 15% Moderate income units for an ownership project allow a developer a density bonus and development concessions if the developer requests them. These are the minimum requirements; a developer may choose many other options. (See “DB Provisions” attached.)

City BMR Requirements and Corresponding Density Bonus				
Tenure	Income Target	% Affordable	DB increase %	No of concessions
Rental	Low	15%	27.5%	1
Ownership	Moderate	15%	10%	1

### Calculate Number of Affordable Units

San Mateo's BMR program requires 15% of the total project count, however affordable units in a DB project are calculated on the “base”, or the size of the project prior to applying the density bonus. If the applicant utilizes DB, the affordable units are calculated in accordance with DB law. Depending on the income category and level of DB requested, this could result in the number of affordable units that is less than 15% of the total project. In all cases, the City's minimum required percentage of the base units must be affordable.

Example 1: A site that is zoned for forty units provides 15% Low income rental units and is eligible for a 27.5% density bonus, or an additional 11 units, for a total of 51. The number of affordable units is 6 ( $40 \times .15$ ), calculated on the “base” zoning, rather than 8 calculated on the actual project size.

Example 2: A rental developer of a one-acre site decides to include Low income units and only requests a 20% DB. DB law would only require 10% of the units to be affordable, however the City BMR requirement is stricter at 15% and must be met, even if the developer does not fully utilize the allowed density increase, which in this case could be 27.5%.

Example 3. A rental developer wishes to obtain a 35% density bonus. This could be accomplished in a variety of ways that result in deeper affordability than the City base requirement: 11-15% Very Low units with balance of Low to meet the 15% total or 20 Low units.

### Super Density Bonus

State regulations provide for special provisions for a project that is 100% affordable to Low income (except 20% may be up to Moderate)

- Applicant gets 4 incentives or concessions
- Up to 80% density bonus
- If within ½ mile of major transit stop
  - Up to 3 additional stories (up to 33 ft.)
  - Zero parking spaces
  - Unlimited density bonus
  - Up to 4 incentives/concessions, plus additional 6 incentives/concessions per City ordinance, plus waivers

### Offsite Construction Option/Land Donation

City BMR program only allows offsite construction of BMR units if the developer can demonstrate that on-site construction is infeasible and that the BMR units are constructed and occupied prior to the occupancy of the development project. The DB law provides for the donation of land in lieu of constructing affordable units onsite if a number of conditions are met. Some of the major provisions include:

- The site is at least 1 acre in size, or sufficiently zoned to permit at least 40 units.
- The land is transferred no later than the approval of final map.
- The site is within the boundaries of the proposed development, or if City approves, within ¼ mile of the proposed development.

### Parking Ratios

Density Bonus law utilizes State parking ratios. In the event the State standards result in fewer parking spaces than San Mateo regulations, the State standards shall override:

- Zero to one bedroom - 1 on-site parking space
- Two to three bedrooms – 1.5 on-site parking spaces
- Four or more bedrooms - 2.5 on-site parking spaces

Parking spaces may be satisfied as “onsite parking” through tandem parking or uncovered parking, but not through on street parking. There are further reductions of parking depending on the affordability levels, special types of housing, and proximity to transit as shown on the attached “Density Bonus Provisions” chart.

### Developer Incentives or Concessions

Developers are allowed to request 1-3 concession(s) to San Mateo development standards based on the percentage of affordable units provided in the project.

For all concessions, the developer must describe how they will provide an actual cost reduction to the affordable housing costs. The City may deny the requested concession only based on the following:

- The concession or incentive does not result in identifiable and actual cost reductions to provide for affordable housing costs,
- The concession or incentive would have a specific adverse impact upon public health and safety or the physical environment or on any property that is listed in the California Register of Historical Resources and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable
- The concession or incentive would be contrary to state or federal law.

The City's ordinance states that the following are deemed not to have negative impact on public health and safety or the physical environment as long as the project remains consistent with the City's General Plan and applicable design guidelines:

- Reduced setbacks
- Increased maximum lot coverage
- Increased maximum Floor Area Ratio;
- Reduction in parking standards beyond State parking ratios.

The City's ordinance expressly states that financial assistance or waiver of fees will not be considered as an incentive or concession.

A developer who provides the affordable units may request Incentives and Concessions and reduced parking even if they do not request an increase in density.

#### Waivers and Modifications of Development Standards.

An applicant may propose waiver or modification of development standards if they would physically preclude the construction of a development meeting the DB law criteria at the densities or with the concessions or incentives permitted by DB law.

The City will require documentation from the applicant to determine the necessity of the waiver or may hire a consultant to prepare an analysis at the expense of the applicant.

## Density Bonus Provisions

1/1/2022	Percentage of Affordable Units Provided	Density Bonus	No of Development Concessions	Parking Concessions	CITY BMR
Very Low Income Density Bonus	5%	20.0%	1	State Standard	
	6%	22.5%	1	State Standard	
	7%	25.0%	1	State Standard	
	8%	27.5%	1	State Standard	
	9%	30.0%	1	State Standard	
	10%	32.5%	2	State Standard	
	11%	35.0%	2	.5 per unit w/in .5 mi major transit	
	12%	38.75%	2	.5 per unit w/in .5 mi major transit	
	13%	42.5%	2	.5 per unit w/in .5 mi major transit	
	14%	46.25%	2	.5 per unit w/in .5 mi major transit	
	15%	50.0%	3	.5 per unit w/in .5 mi major transit	
	10%	20.0%	1	State Standard	
	11%	21.5%	1	State Standard	
	12%	23.0%	1	State Standard	
Lower Income Density Bonus	13%	24.5%	1	State Standard	
	14%	26.0%	1	State Standard	
	15%	27.5%	1	State Standard	Rental
	16%	29.0%	1	State Standard	
	17%	30.5%	2	State Standard	
	18%	32.0%	2	State Standard	
	19%	33.5%	2	State Standard	
	20%	35.0%	2	.5 per unit w/in .5 mi major transit	
	21%	38.75%	2	.5 per unit w/in .5 mi major transit	
	22%	42.5%	2	.5 per unit w/in .5 mi major transit	
	23%	46.25%	2	.5 per unit w/in .5 mi major transit	
	24%	50.0%	3	.5 per unit w/in .5 mi major transit	
	20%	35.0%	2	.5 per unit w/in .5 mi major transit	
	100% ( 20% can be Mod)	80%	4	State Standard	
College Student Housing (special restrictions) Super Density Affordable Super Density Affordable- .5 mi from transit Special Needs/Supportive/Aff Senior Rental Hsg	100% ( 20% can be Mod)	unlimited	4 plus up to 33' ht.	None	
	100%	35%	3	None with Transit Criteria	
	10%	5%	1	State Standard	
	11%	6%	1	State Standard	
	12%	7%	1	State Standard	
Moderate Income Density Bonus (Ownership Only)	13%	8%	1	State Standard	
	14%	9%	1	State Standard	
	15%	10%	1	State Standard	Owner
	16%	11%	1	State Standard	
	17%	12%	1	State Standard	
	18%	13%	1	State Standard	
	19%	14%	1	State Standard	
	20%	15%	2	State Standard	
	21%	16%	2	State Standard	
	22%	17%	2	State Standard	
	23%	18%	2	State Standard	
	24%	19%	2	State Standard	
	25%	20%	2	State Standard	
	26%	21%	2	State Standard	
	27%	22%	2	State Standard	
	28%	23%	2	State Standard	
	29%	24%	2	State Standard	
	30%	25%	3	State Standard	
	31%	26%	3	State Standard	
	32%	27%	3	State Standard	
	33%	28%	3	State Standard	
	34%	29%	3	State Standard	
	35%	30%	3	State Standard	
	36%	31%	3	State Standard	
	37%	32%	3	State Standard	
	38%	33%	3	State Standard	
	39%	34%	3	State Standard	
	40%	35%	3	.5 per bedroom w/in .5 mi major transit	
	41%	38.75%	3	.5 per bedroom w/in .5 mi major transit	
	42%	42.5%	3	.5 per bedroom w/in .5 mi major transit	
	43%	46.25%	3	.5 per bedroom w/in .5 mi major transit	
	44%	50%	3	.5 per bedroom w/in .5 mi major transit	

Example: 15% affordable units provided = 50% density bonus if *very low* income units; 27.5% if *lower* income units, 10% if *moderate* income units.

Choose one category/cannot combine density bonus categories.

Developer may request parking reductions and/or concessions and not request extra density.

Senior/Special Needs Transit Criteria: Paratransit service or w/in .5 mil of eligible bus route that runs at least 8 times/day

State Parking Standards	0-1 BR	1 space onsite
	2-3 BR	1.5 spaces onsite
	4+ BR	2.5 spaces onsite

Transit Criteria -Major transit stop has same meaning as Public Resources code 21155(b). Located within .5 mile means unobstructed (natural or constructed impediments—rail tracks ok) path from any point on property to any point of transit stop.