

DISCLAIMER

This presentation is intended to serve as an informal guide to select pieces of recent legislation and does not reflect any policies, procedures, interpretations, or legal advice from the City and County of San Francisco.



STATE HOUSING LEGISLATION



San Francisco
Planning

Planning Commission

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OVERVIEW

1. Trends this year
2. AB-2011: Affordable Housing and High Road Jobs Act of 2022
3. SB-4: Higher education institutions and religious institutions
4. SB-423: Streamlined housing approvals: multifamily housing developments
5. AB-1287: Additional density bonus and incentives or concessions
6. AB-1114: Post-entitlement phase permits



San Francisco
Planning

Trends this year in State Housing Legislation

- Create more opportunities for ministerial review of code-complying projects
- Provide jurisdictions with timelines to review projects and permits
- Broaden application of State Density Bonus



Objective Standards

“Objective standards” are those that

“involve no personal or subjective judgment by a public official and being uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official.”



Theme throughout
ministerial programs

AB-2011 General Standards

- Creates a ministerial approval process for multifamily housing developments (5 units or more) and 2/3 residential
 - No CEQA
 - No discretionary approvals e.g. CUA or LPA
- Must be located on a site where office, retail or parking are principally permitted
- On-site affordability requirements for 55 years for rental projects and 45 years for ownership projects
- Must be code complying and meet objective standards



AB-2011 Continued

- Effective July 1, 2023 and contains two programs
 - 100% Affordable
 - Mixed-income
- Notification to the California Native American tribes is required on vacant sites
- Prevailing wage requirements
- Timelines for review 90 days for 150 units or fewer and 180 days for more than 150 units
- Eligibility criteria include those of SB-35 plus proximity to freeways and industrial uses.



SB-35 Location Criteria

Project **cannot** be located on the following:



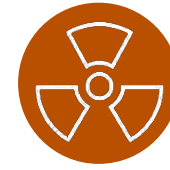
Farmland



Wetlands



**Fire Hazard
Zone**



Hazardous waste site
*unless determined suitable
for residential use*



**Earthquake
Fault Zone**



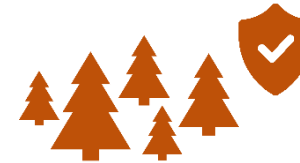
**Flood Hazard
Area**



Floodways



**Conservation Lands
and Easements**



Protected Habitat



**Mobile Home
Parks**

AB-2011: Mixed Income Program

- Must be located on commercial corridors
 - streets that are between 70 and 150 feet wide, including sidewalks
- If there are existing commercial tenants, there are relocation requirements
- Cannot demolish housing that has been occupied by a tenant in the last 10 years or is subject to price controls.
- Cannot demolish a local, state, or national historic resource

Affordability requirements for projects containing 5 or more units:



Rental projects 5-9 units

5% of the units at 30% AMI

8% of the units at 50% AMI

OR

15% of the units at 55% AMI



Rental projects 10+ units

15% of the units at 55% AMI

assuming the Citywide rate



Ownership projects 5-9 units

30% of the units at 120% AMI

OR

15% of the units at 80% AMI



Ownership projects 10+ units

30% of the units at 120% AMI

OR

15% of the units at 80% AMI

AB-2011: 100% Affordable Program

- “100% of the units must be dedicated to low-income households (80% AMI or below) and deed restricted for at least a period of 55 years for rental projects and 45 years for ownership projects
- There is no commercial corridor requirement
- There is no restriction on the demolition of historic resources
- There is no restriction on the demolition of dwelling units
- Would have to comply with the replacement provisions of SB 330



SB-423



Extension of SB-35 which included two programs

1

For jurisdictions not meeting RHNA goals for **low income**:

50% on-site affordable

2

For jurisdictions not meeting RHNA goals for **above moderate-income**:

10% on-site affordable

- Previously we were subject to the 50% program but with the readjusted RHNA calculations, we will be subject to the 10% program
- Any housing project provide on-site inclusionary that meets the eligibility standards will be ministerial.

SB-423

- Creates a ministerial approval process for multifamily housing developments (2 units or more) and 2/3 residential
 - No CEQA
 - No discretionary approvals e.g. CUA or LPA
- Must be code complying
- On-site affordability requirements for 55 years for rental projects and 45 years for ownership projects
- Effective early 2024



SB-423 Continued

- Eligibility criteria include those of SB-35.
- Restrictions on the demolition of housing
- Notification to the California Native American tribes is required on all sites.
- Prevailing wage requirements
- Skilled workforce requirements for buildings over 85 feet
- Timelines for review 90 days for 150 units or fewer and 180 days for more than 150 units



SB-423 Affordability

PROJECTS OVER 10 UNITS

10% or local inclusionary if higher

- For SF: local inclusionary requirements for over 10 units with at least 10% at lowest tier
- 15% Citywide rate = 10% @55% AMI, 2.5% @80%AMI, and 2.5% @110%

*Can collapse the tiers automatically;
No incentive required for SDB projects*

10-UNIT PROJECTS

Local inclusionary for 10 units

- 15% Citywide rate = 15% @55% AMI



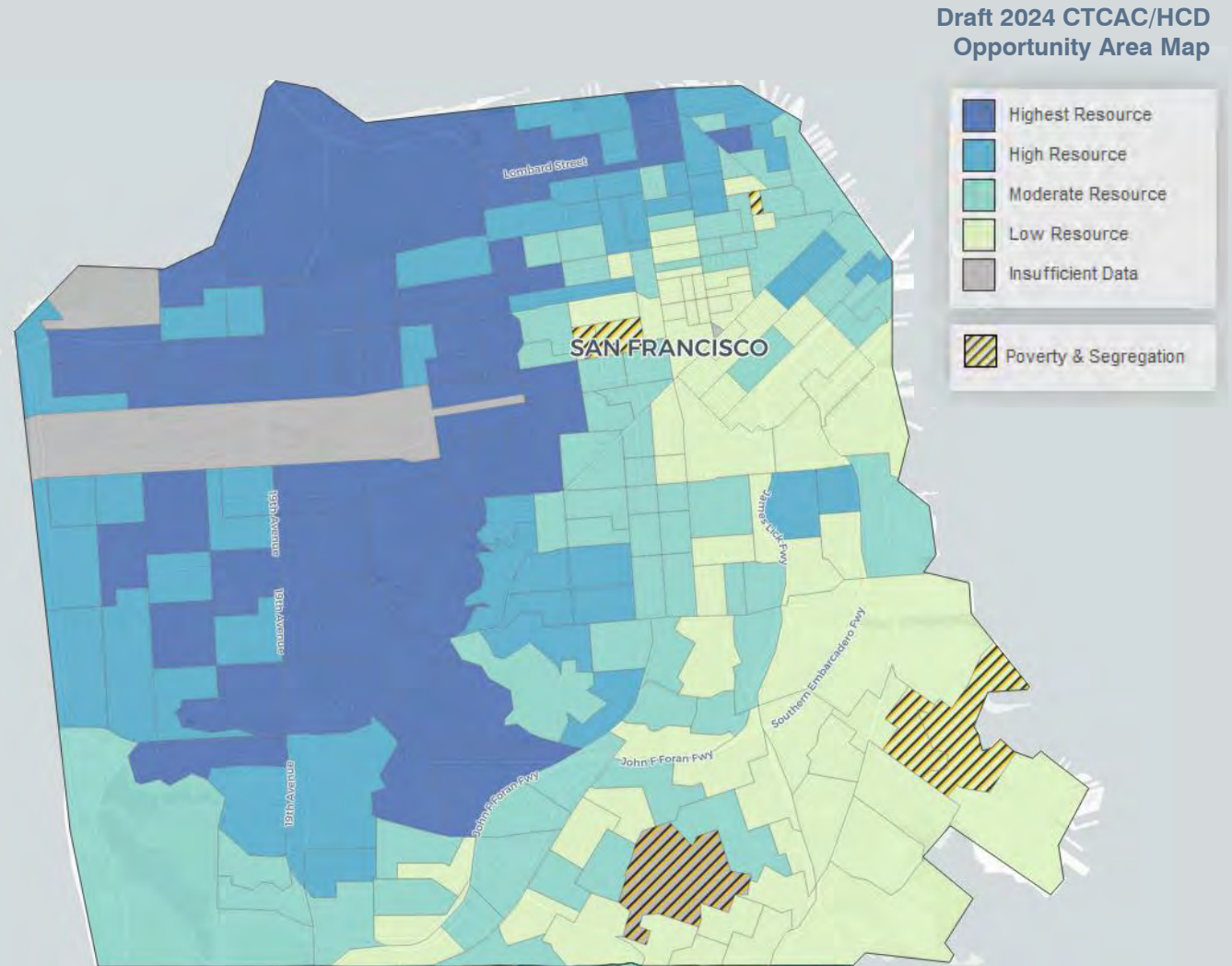
NO AFFORDABILITY FOR UNDER 10 UNITS

Ministerial if considered code complying



SB-423 Hearing Requirements

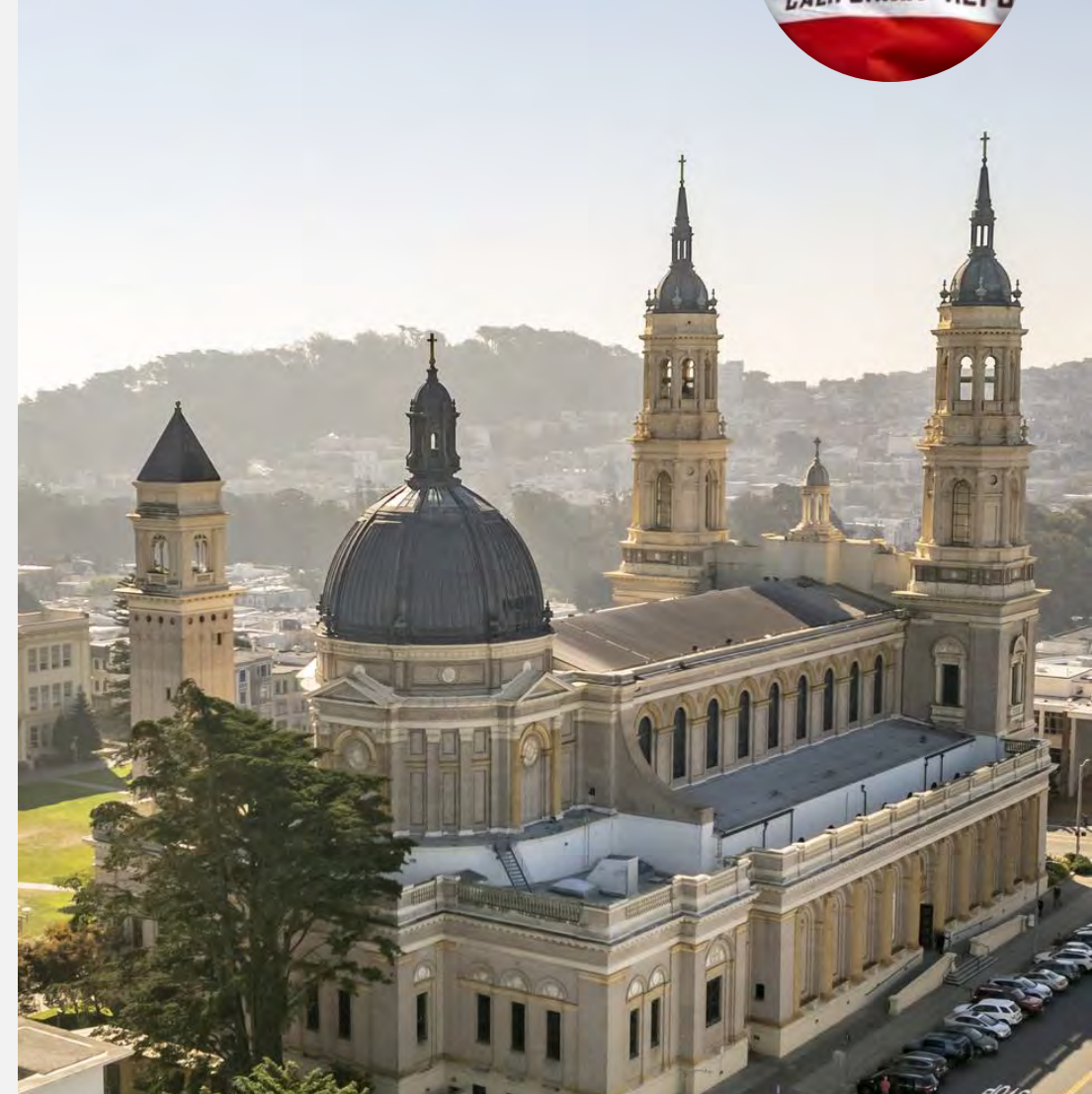
- If property located on CTCAC/HCD Opportunity Map
 - moderate resource area, low resource area, or an area of high segregation and poverty
- Planning Commission Hearing is held before submittal
- Within 45 days from the Notice of Intent
- Allow opportunity for public comment
- Project Sponsor not required to make changes to the project



SB-4



- Creates a ministerial approval process for multifamily housing developments (2 units or more)
 - No CEQA
 - No discretionary approvals e.g. CUA or LPA
- Must be code complying
- Developed by nonprofit, religious institution, local public entity, independent institution of higher education on land owned by religious or education owned as of January 1, 2024
- On-site affordability: 100% @ 80% AMI with up to 20% at 120% AMI and 5% can be for employees of the institution



SB-4 Continued

Eligibility criteria include those of SB-35 plus proximity to freeways and industrial uses.

Although different than AB-2011



Cannot be within 500' of a freeway unless air filtration by MERV 13



Additional Industrial use reqs.:
Cannot be located within 1200 feet of a heavy industrial use or within 1600 feet of a Title V industrial use

- Restriction on the demolition of historic resources
- Restrictions on the demolition of housing
- Notification to the California Native American tribes is required on vacant sites
- Prevailing wage requirements
- Timelines for review 90 days for 150 units or fewer and 180 days for more than 150 units

AB-1287: State Density Bonus Law



A project that receives a maximum bonus for providing

VERY LOW

(15% @ 50% AMI)

LOW

(24% @ 80% AMI)

MODERATE

(44% @ 120% AMI)

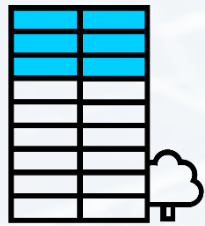
is then eligible to receive an additional density bonus provided that more affordable units are provided at the very low- or moderate-income levels.

- If the additional units are at very low, a sponsor may provide up to 10% which would result in a 38.75% bonus
- If at moderate, up to 15% which would result in a 50% bonus



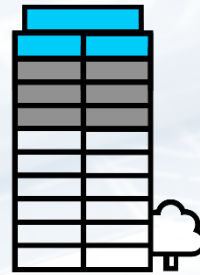
AB-1287 Continued

Example Project



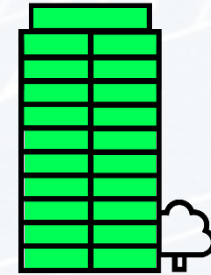
**100 units with
15% VLI**

- Entitled to a 50% bonus
(50 units)



**Providing an
additional 10% VLI**

- Entitled to a 38.75% bonus
(39 units)

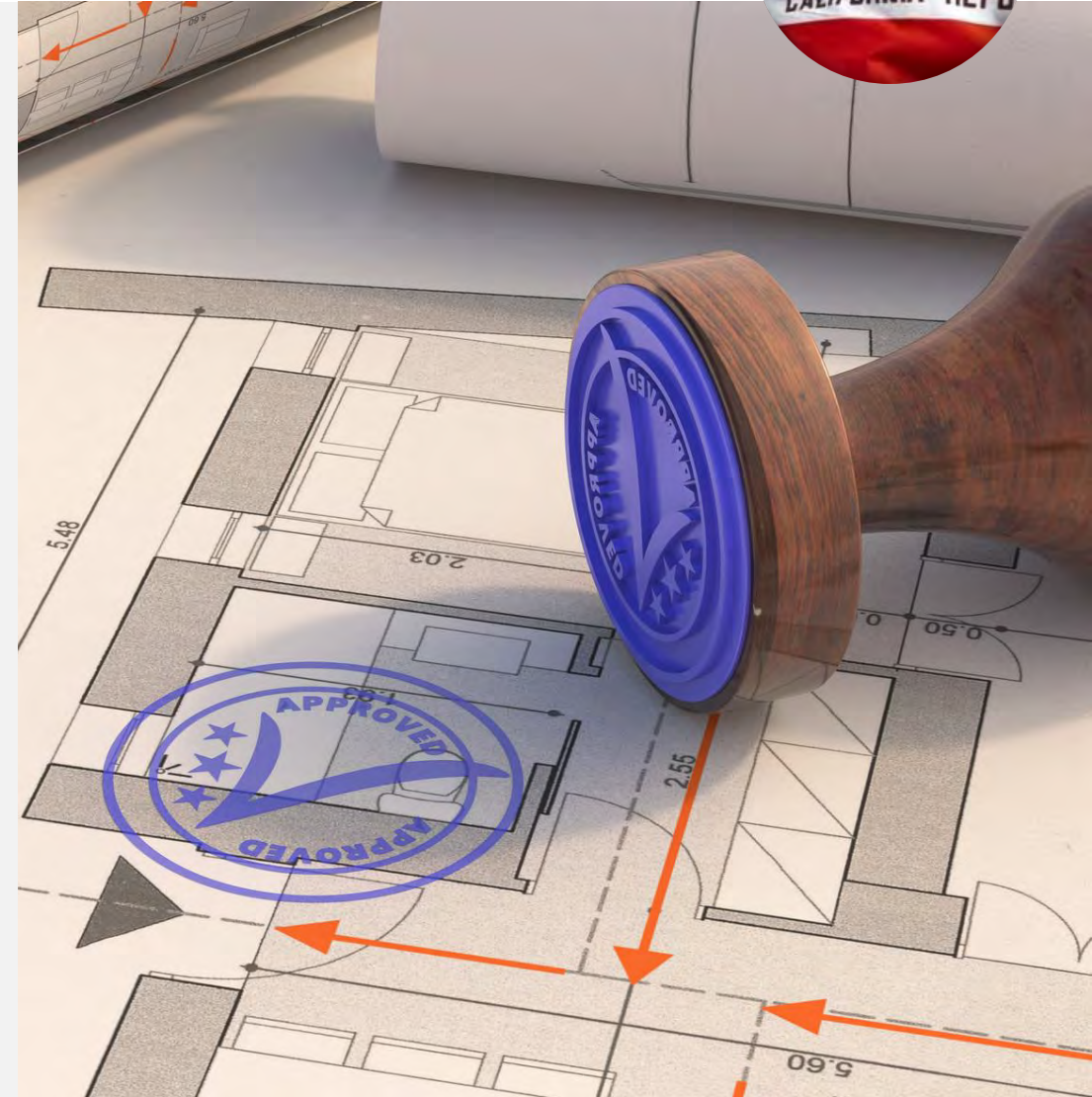


**Resulting project:
189 units**

- 100 base and 189 bonus
- 25% affordable (25 units)
- 164 market rate units

AB-1114

- Defines a post-entitlement phase permit
- Requires sample plans and exhaustive lists of requirements for post-entitlement phase permits
- Sets timeline for review of post-entitlement permits
- Prohibits appeal of post-entitlement permits



AB-1114 Definitions

Post-entitlement Phase Application Definition

All nondiscretionary permits and reviews that are required or issued by the local agency after the entitlement process has been completed to begin construction of a development that is intended to be at least two-thirds residential, excluding discretionary and ministerial planning permits. A post-entitlement phase permit includes, but is not limited to, all of the following:

- Building permits, and all interdepartmental review required for the issuance of a building permit 25% affordable (25 units)
- Permits for minor or standard off-site improvements
- Permits for demolition
- Permits for minor or standard excavation and grading



All building permits and other permits issued under the California Building Standards Code (Title 24 of the California Code of Regulations) or any applicable local building code for the construction, demolition, or alteration of buildings, whether discretionary or nondiscretionary



AB-1114 Timelines For Completeness

15 days: written notice must be provided as to whether complete or incomplete

- If incomplete: agency must provide applicant a list of all items that are missing. Items must appear on lists published by the agency.
- Applicant may submit missing materials; however, an agency **may not require new items** that were not included on the published list or first incomplete letter
- 15 days for agency to review revised submittals

If timelines are not met, the permit will be considered **complete**



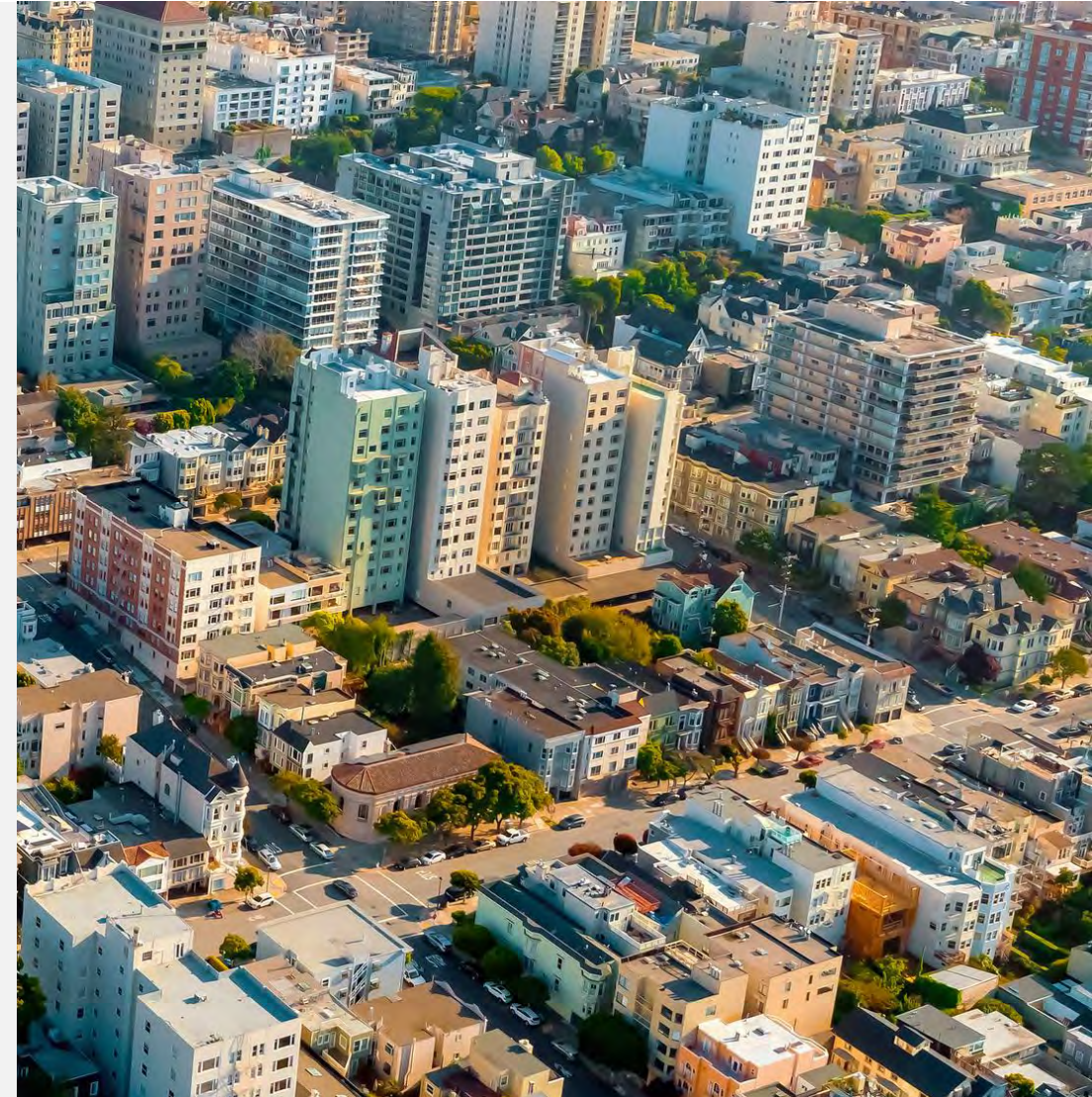
AB-1114 Timelines For Review

30 business days after complete determination:
for projects of 25 units or fewer

60 business days after complete determination:
for projects of 26 units or more

Agency determines if compliant and if not provide request for revisions in writing; done electronically

- Once revisions are submitted, agency must complete review within 30 days
- If compliant, approve permit



AB-1114 Implementation



Interagency working group to clearly define all post-entitlement phase permits



Ability to review permits concurrently

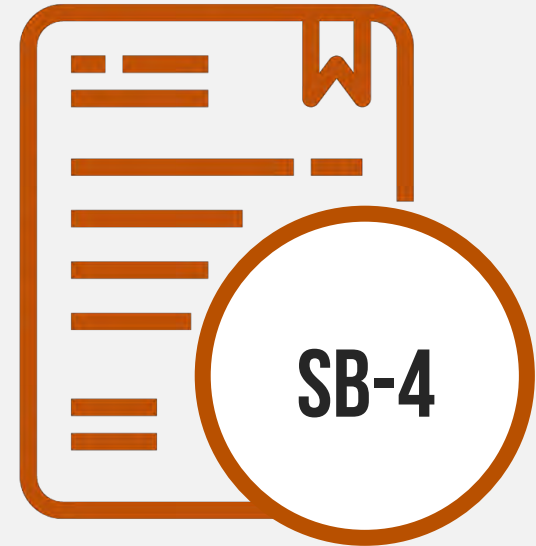
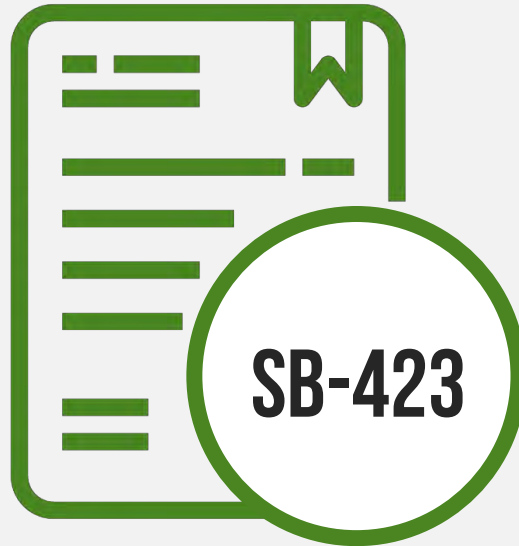


Tracking and monitoring



Implementation for Ministerial Programs

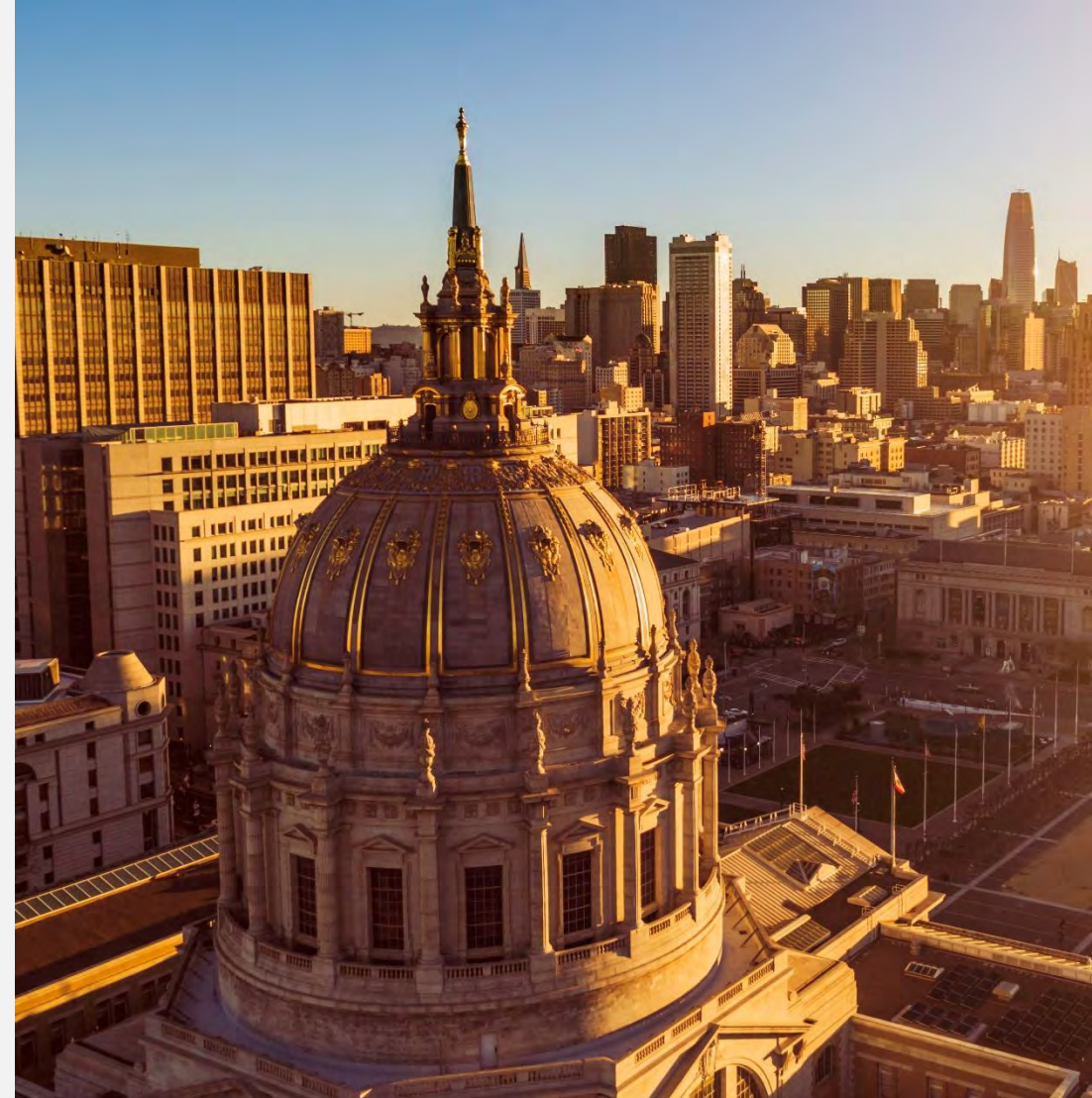
- Revised Bulletins and applications for ministerial programs



- Revised State Density Bonus Bulletin and application to reflect additional bonus

Changes to Planning Commission Review

- Informational hearings for projects subject to SB-423 if located on CTCAC/HCD Opportunity Map
- Code complying projects with on-site inclusionary are ministerial
 - Likely will not see SDB projects as a result
- Code complying projects under 10 units: ministerial review





QUESTIONS?



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THANK YOU!



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