DISCLAIMER: This document is intended solely as a template application checklist for staff to use for review of development project proposals for adherence to the provisions of AB 2011 (2022). It is not intended to serve as legal advice regarding any jurisdiction's specific policies or any proposed housing development project. Local staff should consult with their city attorney or county counsel when determining the applicability of these provisions to any proposed housing development project in their jurisdiction. Because the laws are so new, the legislative intent of major provisions is still being discussed, and this memo may change significantly.

# DRAFT

# [CITY/COUNTY] OF XXX AB 2011 AFFORDABLE PROJECTS APPLICATION CHECKLIST

# Government Code Section 65912.111 to 65912.114: Affordable Housing and High Roads Jobs Act of 2022

## Section 1: Development Proposal Preliminary Questions

To be completed by development proponent/applicant:

### Project Information:

1. Development proponent/applicant name:
2. Site address(es):
3. Assessor's Parcel Number(s) (APN):
4. Project Proposal (description):
5. Number of units proposed:
6. Number of affordable units proposed by income level:

### Site Information:

1. Parcel zoning designation (refer to Appendix A: Applicable zoning designations):
2. Neighborhood plan area (See Appendix B: Applicable neighborhood plan areas):
3. Residential density permitted, if allowed (DUA):
4. Zoning designation for closest parcel that allows multifamily residential use at [*insert default density for jurisdiction]*:
5. Existing/prior uses:
6. Uses on adjacent parcels (including across the street):
7. Number of residential units existing on the site:
8. Number of existing residential units proposed to be demolished:
   1. Indicate whether units have been owner or renter occupied for last ten[[1]](#footnote-1) years:
   2. Provide income of existing tenant or last tenant in occupancy, if known:
   3. Number and size of units (number of bedrooms) being proposed:
   4. Provide SB 330 required documentation [*insert list of required documentation; see ABAG* [*Guide to Replacement Housing Requirements*](https://abag.ca.gov/technical-assistance/guide-california-state-replacement-housing-requirements)*.*]

## Section 2: Development Proposal Checklists

Table 1: Site and Project Criteria Checklist

| **-** | **Site and Project Criteria 65912.111** | **Meets Criteria? Yes/No/Comments** |
| --- | --- | --- |
| **A** | **65912.111 (a)**  Located in a zone where office, retail, or parking is a principally permitted use. |  |
| **B** | *[Cities use this row]*  **65912.111 (b)**  A legal parcel or parcels that is within a city where the city boundaries include some portion of an urban area[[2]](#footnote-2). |  |
| **B** | *[Counties use this row]*  **65912.111 (b)**  A legal parcel or parcels that is in an unincorporated area, and the parcel(s) are wholly within the boundaries of an urban area. |  |
| **C** | **65912.111 (c)**  At least 75 percent of the site perimeter adjoins parcels with urban uses (inclusive of parcels that are only separated by a street or highway). |  |
| **D** | **65912.111 (d)**  Not on or adjoined to any site where more than one-third of the site is industrial use (inclusive of parcels that are only separated by a street or highway). |  |
| **E** | **65912.111 (e)**  Satisfies the requirements specified in subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of Section 65913.4 regarding:   * Prime farmland or farmland of statewide importance * Wetlands * Hazardous waste site * Delineated earthquake fault zone * 100-year Flood Zone * Regulatory Floodway * Lands identified in an adopted natural resources protection plan * Protected Habitat * Conservation easement |  |
| **F** | **65912.111 (f)**  Not governed under the Mobilehome Residency Law, the Recreational Vehicle Park Occupancy Law, the Mobilehome Parks Act, or the Special Occupancy Parks Act. |  |
| **G** | **65912.111 (g)**  For a site within a neighborhood plan, the neighborhood plan permits multifamily housing development on the site. |  |
| **H** | **65912.111 (h)**  If vacant site, satisfies both of the following:  (1) No tribal cultural resources.  (2) Not within a very high fire hazard severity zone. |  |

Table 2: Affordability Requirements Checklist

| **-** | **Project Affordability (65912.112)** | **Meets Requirements? Yes/No/Comments** |
| --- | --- | --- |
| **A** | **65912.112 (a)**  One hundred percent of the units within the development project, excluding managers’ units, shall be dedicated to lower income households at an affordable cost or an affordable rent. |  |
| **B** | **65912.112 (b)**  The development proponent has agreed that the units shall be subject to a recorded deed restriction for a period of 55 years for rental units and 45 years for owner-occupied units. |  |

Table 3: Objective Development Standards Checklist

| **-** | **Objective Development Standards 65912.113** | **Meets Requirements? Yes/No/Comments** |
| --- | --- | --- |
| **A** | **65912.113 (a)**  The development is a housing development project that proposes five (5) or more units. |  |
| **B** | **65912.113 (b)**  The residential density will meet or exceed [*insert default density for jurisdiction*] |  |
| **C** | **65912.113 (c)**  The development proponent has completed a phase I environmental assessment and mitigated any health hazards to a level of insignificance (provide documentation as an attachment). |  |
| **D** | **65912.113 (d)**  None of the housing on the site will be located within 500 feet of a freeway. |  |
| **E** | **65912.113 (e)**  None of the housing on the site will be located within 3,200 feet of a facility that actively extracts or refines oil or natural gas. |  |
| **F** | **65912.113 (f)**  Project meets objective zoning, subdivision, and objective design review standards for the zone that allows residential use at a greater density between:  (A) The existing zoning designation for the parcel if existing zoning allows multifamily residential use.  (B) The zoning designation for the closest parcel that allows residential use at the default density. |  |

### Definitions 65912.101

1. “Commercial corridor” means a highway, as defined in Section 360 of the Vehicle Code, that is not a freeway, as defined in Section 332 of the Vehicle Code, and that has a right-of-way, as defined in Section 525 of the Vehicle Code, of at least 70 and not greater than 150 feet.
2. “Development proponent” means a developer who submits a housing development project application to a local government under the streamlined, ministerial review process pursuant to this chapter.
3. “Extremely low income households” has the same meaning as defined in Section 50106 of the Health and Safety Code.
4. “Health care expenditures” include contributions under Sections 501(c) or (d) or 401(a) of the Internal Revenue Code and payments toward “medical care” as defined under Section 213(d)(1) of the Internal Revenue Code.
5. “Housing development project” has the same meaning as defined in Section 65589.5.
6. “Industrial use” means utilities, manufacturing, transportation storage and maintenance facilities, and warehousing uses. “Industrial use” does not include power substations or utility conveyances such as power lines, broadband wires, and pipes.
7. “Local affordable housing requirement” means either of the following:
   1. A local government requirement, as a condition of development of residential units, that a housing development project include a certain percentage of units affordable to, and occupied by, extremely low, very low, lower, or moderate-income households as a condition of development of residential units.
   2. A local government requirement allowing a housing development project to be a use by right if the project includes a certain percentage of units affordable to, and occupied by, extremely low, very low, lower, or moderate-income households as a condition of development of residential units.
8. “Local government” means a city, including a charter city, a county, including a charter county, or a city and county, including a charter city and county.
9. “Lower income households” has the same meaning as defined in Section 50079.5 of the Health and Safety Code.
10. “Major transit stop” has the same meaning as defined in subdivision (b) of Section 21155 of the Public Resources Code.
11. “Moderate-income households” means households of persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code.
12. “Multifamily” means a property with five or more housing units for sale or for rent.
13. “Neighborhood plan” means a specific plan adopted pursuant to Article 8 (commencing with Section 65450) of Chapter 3, or an area plan, precise plan, urban village plan, or master plan that has been adopted by a local government.
14. “Principally permitted use” means a use that may occupy more than one-third of the square footage of designated use on the site and does not require a conditional use permit.
15. “Side street” means a highway, as defined in Section 360 of the Vehicle Code, that is not a freeway, as defined in Section 332 of the Vehicle Code, and that has a right-of-way, as defined in Section 525 of the Vehicle Code, of at least 25 and fewer than 70 feet.
16. “Urban uses” means any current or former residential, commercial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses.
17. “Use by right” means a development project that satisfies both of the following conditions:
    1. The development project does not require a conditional use permit, planned unit development permit, or other discretionary local government review.
    2. The development project is not a “project” for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code.
18. “Very low income households” has the same meaning as defined in Section 50105 of the Health and Safety Code.

### Appendix A: List of Applicable Zoning Designations

*[Jurisdiction insert list of zoning designations that allow office, retail, or parking as principally permitted use (1/3 of square footage without a conditional use permit). Refer to map if available.]*

### Appendix B: List of Application Neighborhood Area Plans

*[Jurisdiction insert list of neighborhood plan areas that meet legally required deadlines.]*

## Section 3: Internal Review and Approval

To be completed by [City/County] staff

### Staff Approval for Code Sections

|  |  |
| --- | --- |
| Code Section | Staff signature |
| Site and Project Criteria 65912.111 The development project satisfies all of the site and project criteria listed in Table 1 above. |  |
| **Affordability Criteria 65912.112.**  The development proposal meets all of the affordability criteria listed in Table 2 above. |  |
| **Objective Development Standards 65912.113.**  The development proposal meets all the required objective development standards listed in Table 3 above and adheres to other standards from zoning code for the closest zone. |  |

**Project Details to Determine Review Timeline**

|  |  |
| --- | --- |
| **Number of units** |  |
| **Date to Inform development proponent of inconsistencies** |  |
| **Date to complete objective planning standards review** |  |

### **Development Proposal** Review Timelines 65912.1**1**4

If it is determined that the development submitted is in conflict with any of the objective planning standards, the [City/County] shall provide the development proponent written documentation of which standard or standards the development conflicts with, and an explanation for the reason or reasons the development conflicts with that standard or standards, within the following timeframes:

* Within 60 days of submittal of the development proposal if the development contains 150 or fewer housing units.
* Within 90 days of submittal of the development proposal if the development contains more than 150 housing units.

If it is determined that the development is consistent with the objective planning standards, the development shall be approved:

* Within 90 days of submittal of the development proposal if the development contains 150 or fewer housing units.
* Within 180 days of submittal of the development proposal if the development contains more than 150 housing units.

It has been determined by [City/County] staff that the project meets all criteria and requirements of AB 2011 sections governing mixed income housing projects:

Signature: Date:

1. Any units rented by lower income households in the past ten years that are to be demolished must be replaced with deed-restricted lower income units as provided under the Housing Crisis Act of 2019. (G.C. Section 66300(d).) [↑](#footnote-ref-1)
2. Previously defined as an urbanized area or urban cluster, as designated by the United States Census Bureau. [↑](#footnote-ref-2)